

CSSB 86 (JUD) – EXPLANATION OF CHANGES

The following is a description of the changes that have occurred between the originally introduced bill and the version before the Senate Finance Committee. These changes were adopted in the Senate Judiciary Committee. The page references refer to the current bill version.

1. The first two sections of the bill are newly added.
2. Page 2, line 18; Sec. 3. AS 11.56.740(a) – Replaced “**AS 13.26.180**” with “**AS 13.26.207**”.
3. Page 2, line 23; Sec. 4. AS 11.56.740(c) - Replaced “**AS 13.26.180**” with “**AS 13.26.207**”.
4. Page 2, lines 24-26; Sec. 5. AS 12.55.155(c) – this is a new section.
5. Page 2, line 30; Sec. 6. AS 13.26.165 – Replaced “**make other**” with “**issue another**”.
6. Page 3, lines 3-10; Sec. 6 AS 13.26.165(1) – this paragraph was restructured to take the phrases and create subparagraphs A, B and C.
7. Page 3, line 4; Sec. 6. AS 13.26.165(1)(A) – Replaced “**which**” with “**that**”.
8. Page 3, line 5; Sec. 6. AS 13.26.165(1)(B) – Added “**the minor**” and replaced “**which**” with “**that**”.
9. Page 3, lines 8 and 9; Sec. 6. AS 13.26.165(1)(C) – Deleted two instances of “**that**”.
10. Page 3, line 18; Sec. 6. AS 13.26.165(2) - Replaced “**which**” with “**that**”.
11. Page 4, lines 6-9; Sec. 9. AS 13.26.185 – this is a new section.
12. Page 4, line 10 – Page 7, line 24 – Provisions regarding temporary conservatorships, ex parte protective orders, temporary protective orders and permanent protective orders are restructured into separate sections and the sections are renumbered. **Temporary conservatorships are now in AS 13.26.206 (pages 4-5). Ex parte protective orders are now in AS 13.26.207. Temporary protective orders; conversions are now in AS 13.26.208 (pages 5-6). Modifications, compliance and forms and fees provisions are now in AS 13.26.209 (pages 6-7).**
13. Page 4, line 22; Sec 10. AS 13.26.206(a) – Following “**attorney**” inserted “**and other persons as ordered by the court.**”

14. Page 4, line 23; Sec. 10. AS 13.26.206(a) – Inserted “**appoint an attorney for a respondent who is unrepresented to be at the hearing and**”.

15. Page 5, lines 4-9; Sec. 10. AS 13.26.207(a) - Following “**against**” inserted “**a person other than the protected person. A petition filed on behalf of a protected person by a person other than the protected person must be accompanied by proof of service of the petition on the protected person or the person’s attorney unless service would cause an immediate threat of harm to the best interests of the protected person and the petition includes a written explanation of the harm.**”

16. Page 5, lines 25-28; Sec. 10. AS 13.26.207(c) – Replaced “**at the end of a six-month extension if granted by the court under (d) of this section, or upon the appointment of a temporary or permanent conservator or dismissal of the petition for the ex parte order,**” with “**unless dissolved earlier by the court at the request of the petitioner or respondent and after notice and, if requested, a hearing, or on the earlier appointment of a temporary or permanent conservator.**”

17. Page 5, line 29; Sec. 10. AS 13.26.208 – Replaced “**Upon**” with “**On**”.

18. Page 5, lines 30-31; Sec. 10. AS 13.26.208 – Replaced “**the**” with “**a**” and following “**order**” inserted “**issued under AS 13.26.207,**”.

19. Page 5, line 31; Sec. 10. AS 13.26.208 – Replaced “**extend**” with “**convert**”.

20. Page 6, line 1; Sec. 10. AS 13.26.208 – Following “**order**” inserted “**to a temporary order effective**”.

21. Page 6, line 2; Sec. 10. AS 13.26.208 – Following “**provide**” inserted “**to the protected person and the respondent**”.

22. Page 6, lines 2-3; Sec. 10. AS 13.26.208 – Deleted “**to the respondent**”.

23. Page 6, line 6; Sec. 10. AS 13.26.208 – Replaced “**extend**” with “**convert**”.

24. Page 6, line 7; Sec 10. AS 13.26.208 – Following “**order**” inserted “**to a temporary protective order effective**”.

25. Page 6, lines 8-29; Sec. 10. AS 13.26.209 – Subsections a-d are all new subsections.

26. Page 6, line 30; Sec. 10. AS 13.26.209(e) – Replaced “**this section**” with “**AS 13.26.207-13.26.209**”.

27. Page 7, lines 1-2; Sec. 10. AS 13.26.209(f) – Following “**party**” inserted “**that has received actual or legal notice of a protective order issued under AS 13.20.207-13.26.209**”

28. Page 7, line 3; Sec. 10. AS 13.26.209(f) - Replaced “**this section**” with “**AS 13.26.207-13.26.209**”.

29. Page 7, lines 7-8; Sec. 10. AS 13.26.209(f) - Replaced “**this section**” with “**AS 13.26.207-13.26.209**”.

30. Page 7, lines 9-10; Sec. 10. AS 13.26.209(f) – Following “**order.**” Inserted “**As used in this section, “actual or legal notice” means delivery by mail or facsimile at the most recently known place of residence or business of the third party.**”

31. Page 7, lines 15-16; Sec. 10. AS 13.26.209(g) – Replaced “**their use**” with “**use of the forms**” and replaced “**this section**” with “**AS 13.26.207-13.26.209**”.

32. Page 7, lines 22-24; Sec. 10. AS 13.26.209(h) – Replaced “**this section**” with “**AS 13.26.207, for an application under AS 13.26.208, or for a request for modification of a protective order under AS 13.26.209(a).**”

33. Page 7, line 29; Sec. 11. AS 13.26.324(2) - Replaced “**theft and related offenses**” with “**offenses against property**”.

34. Page 8, line 10; Sec. 12. AS 18.65.530(a)(2) - Replaced “**and**” with “**or**” .

35. Page 8, line 15; Sec. 13. AS 18.65.540(a) – Replaced “**AS 13.26.180,**” with “**AS 13.26.207-**”.

36. Page 8, line 22; Sec. 14. AS 18.65.540(b) – Replaced “**AS 13.26.180, 13.26.209**” with **AS 13.26.207, 13.26.208**”.

37. Page 8, line 23; Sec. 14. AS 18.65.540(b) – Following “**under**” inserted “**AS 13.26.209,**”.

38. Page 8, line 24; Sec. 14. AS 18.65.540(b) – Replaced “**must**” with “**shall**”.

39. Page 8, line 27-Page 9, line 7; Sec. 14. AS 44.21.415(g) - this is a new section.

40. Page 10, line 31, Sec 19. AS 47.24.010(d) – Replaced “**their**” with “**the person’s**” and replaced “**nor does it**” with “**This section does not**”.

41. Page 11, lines 10-11; Sec. 20. AS 47.24.010(e) – Inserted the amending language before the deletion instead of after the deletion.
42. Page 12, line 3; Sec 23. AS47.24.013(a) – Replaced “**regards**” with “**pertains to**”.
43. Page 14, lines 2-5; Sec.29. AS 47.24.015(h) - this is a totally redrafted subsection.
44. Page 14, line 9; Sec. 29. AS 47.24.015(j) - Deleted (j) in the original bill and re-lettered the following subsections accordingly.
45. Page 13, line 24; Sec. 29. AS 47.24.015(m) - Replaced “**the following:**” and (1) – (4) with “**any person**”
46. Page 14, line 29; Sec. 30. AS 47.24.016(a) - Following “**guardian,**” inserted “**conservator,**” .
47. Page 15, line 7-8; Sec. 30. AS 47.24.016(a)(1) - Replaced “**divorce or dissolution**” with “**divorce, [OR] dissolution, or legal separation**” .
48. Page 16, line 5; Sec. 33. AS 47.24.017(a) - Replaced “**guardian or**” with “**guardian, conservator, [OR]**”.
49. Page 16, line 19; Sec. 34. AS 47.24.019(c) - Replaced “**a family member, caregiver, guardian, conservator, attorney-in-fact, trustee, or surrogate decision maker**” with “**any person.**”
50. Page 16, line 21; Sec. 34. AS 47.24.019(c) - Replaced “**a family member, caregiver, guardian, conservator, attorney-in-fact, trustee, or surrogate decision maker**” with “**person**”.
51. Page 17, line 7; Sec. 35. AS 47.24.050(b) - Following “**guardian,**” inserted “**conservator,**”.
52. Page 17 line 10; Sec. 34. AS 47.24.050(b) - Following “**guardian,**” inserted “**conservator,**”.
53. Page 18, line 1; Sec. 37. AS 47.24.900(2)(A) - Following “**intentional,**” inserted “**knowing,**” .
54. Page 18, line 18; Sec. 39. AS 47.24.900(4) - Replaced “**means**” with “**includes**”.
55. Page 18, line 28; Sec. 40. AS 47.24.900(7)(B) - Following “**deception,**” inserted “**fraud,**” .

56. Page 18, lines 29-30; Sec. 40. AS 47.24.900(7) (B) - Following “**duty;**” inserted “**in this paragraph, “fraud” has the meaning given in AS 13.26.324(1) and (2);**”

57. Page 19, line 1; Sec. 41. AS 47.24.900(9) - Following “**intentional,**” inserted “**knowing,**”.

58. Page 19, line 7; Sec. 41. AS 47.24.900(9) - Replaced “**means**” with “**includes**”.

59. Page 19, lines 9-23; Sec. 42. AS 47.24.900(11) - Legal Services reformatted this section, but there was no substantial change.

60. Page 19, line 16; Sec. 42. AS 47.24.900(11)(B)(D) - Replaced “**(iv) freezing an account at a financial institution;**” with “**(D) staying financial transactions;**”

61. Page 20, line 3 Sec. 43. AS 47.24.900(15)(D) - Following “**loss**” inserted “**, waste, or dissipation**” .

62. Page 20, lines 16-18; Sec. 45. AS 47.24.900(18) – Redrafted the definition of “fiduciary duty”.

63. Page 21, lines 13-15; Sec. 45. AS 47.24.900(21) - Replaced “ “**undue influence**” means a person of trust or confidence uses the person’s role, relationship or authority to exploit” with “ “**undue influence**” means the use by a person who stands in a position of trust or confidence of the person’s role, relationship, or authority to wrongfully exploit” .

64. Page 21, line 15; Sec. 45. AS 47.24.900(21) - Deleted “**deceptively**”.

65. Page 21, lines 23-26; Sec. 46. Direct Court Rule Amendments 12(h) - Replaced all bold language with “**In deciding whether to grant the motion, the court shall consider the victim’s circumstances and the effect that delay would have on the victim, particularly a victim of advanced age or extreme youth. The court shall place its findings on the record.**”

66. Page 22, line 5-6; Sec. 47. Direct Court Rule Amendments 45(a) - Following “**cases.**” inserted “**The court shall consider the circumstances of the victim, particularly a victim of advanced age or extreme youth, in setting the trial date.**”

67. Page 22, line 12; Sec. 48. Indirect Court Rule Amendments (a) – Following (a) inserted “**AS 13.26.207, 13.26.208, and**”.

68. Page 22, line 13; Sec. 48. Indirect Court Rule Amendments (a) – Replaced “**7**” with “**10**” and replaced “**has**” with “**have**”.

69. Page 22, line 15; Sec. 48. Indirect Court Rule Amendments (a) – Following “**parte**” inserted “**and temporary**” and following “**orders**” inserted “**and modifications of orders**”.

70. Page 22, line 18; Sec. 48. Indirect Court Rule Amendments (b) – Replaced “**7**” with “**10**”.

71. Page 22, lines 20-22; Sec. 48. Indirect Court Rule Amendments (b) – Replaced “**AS 13.26.209(a), enacted by sec. 7 of this Act**” with “**AS 13.26.207 for an application for a temporary order under AS 13.26.208, or for modification of a protective order under AS 13.26.209(a), enacted by sec. 10 of this Act**”.

72. Page 22, line 23-Page 23, line 1; Sec. 48. Indirect Court Rule Amendments. Created new subsections (c), (d) and (e).

73. Page 23, lines 4-5; Sec. 49. Applicability. Replaced “**1,2,3, and 42**” with “**3-5, 46, and 47**” and following “**date**” inserted “**of secs. 3-5**”.

74. Page 23, lines 8-15; Sec. 50. Revisor’s Instructions. This section was moved to a different part of the bill to precede Conditional Effects.

75. Page 23, line 18- Page 24, line 1; Sec 51. Conditional Effect. This section was revised due to the restructuring and other changes in Section 10 of the bill.

76. Page 24, line 2; Sec 52. This is a new section stating “**Sections 16 and 20 of this Act take effect September 1, 2011.**”

77. Page 24, line 3; Sec. 53. Effective Date - Replaced “**immediately under AS 01.10.070(c).**” with “**July 1, 2011.**”