

# Alaska State Legislature

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## HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Representative Paul Seaton, Chairman

To: Representative Gabrielle LeDoux  
Chair, House Judiciary  
CC: House Judiciary Committee  
Re: HB 334  
Date: April 9, 2016

To the House Judiciary Committee,

As members of the House Health and Social Services Committee, we recognize that domestic violence is a serious health concern in our state and in our nation. The rate of domestic violence in Alaska is staggering. Children who experience or are exposed to domestic violence often struggle with behavioral issues and health concerns later in life. The majority of domestic violence cases do not result in a conviction even when there is evidence.

We also recognize that maintaining relationships with both parents is often in the best interest of the child, which is the issue HB 334 strives to address. How a custody statute is applied depends greatly on judicial details such as the various evidentiary burden of proof. As the members of the House committee most familiar with judicial proceedings, we ask you to consider the following questions as you examine HB 334.

1. How often is the rebuttable presumption asked for? How often is it applied?
2. What part do short term protective orders have in these statutes?
  - ❖ How easy are these orders to obtain? Do they require a court finding of evidence first?
  - ❖ How often are short term protective orders approved and how often are they denied?
  - ❖ Could a short term order be considered as a part of the 'history of violence' required under the current AS 25.24.150(g)?
  - ❖ Do judges or attorneys need more training on the appropriate use of protective orders?
3. How available are the batterers intervention programs mentioned in AS 25.24.150?
4. How many supervised visitation programs are there available for parents who cannot find a friend or family member to supervise visitations for free? Where are they located and how much would such a program cost? How often do parents not see their children because they can't agree to a person to supervise visits?

5. It is unclear how these statutes might apply to a blended family. For example, a family with children from prior relationships on both sides. These relationships and their custody standing should be better understood.

- ❖ How does custody apply to the non-biological parent who has been involved in the child's life for a long time?
- ❖ How does setting a five year time limit on domestic violence history affect these families?

6. Perhaps most importantly, we ask the committee to consider whether the rebuttable presumption under AS 25.24.150(g) should be kept in some form or should it be modified or narrowed?

- ❖ Under the current statute 25.24.150(c)(7) a judge shall consider, in their own judgement, any evidence of domestic violence. The rebuttable presumption is triggered by a 'history of perpetrating domestic violence.'
- ❖ HB 334 as introduced left the rebuttable presumption in place, but changed 'history of perpetrating' to 'convicted of a crime involving' domestic violence. Many members considered a conviction to be much too high a standard. However, 25.24.150(c)(7) remained under consideration for any evidence of domestic violence.
- ❖ CSHB 334 version I replaces the requirement for a conviction with a standard of 'clear and convincing evidence.' The rebuttal presumption under AS 25.14.150(g) is repealed in full and replaced with new, permissive language. AS 25.24.150(c)(7) now requires clear and convincing evidence in order for domestic violence to be considered.
- ❖ The House Health and Social Services Committee received testimony that the rebuttable presumption is being abused to gain advantages in custody disputes. However, it is not clear whether the rebuttable presumption should be repealed entirely or amended with a different evidence standard and whether the requirements of the presumption might be narrowed or refined while maintaining some of its force to protect domestic violence victims and their children.

The members of the House Health and Social Services Committee send these questions to the Judiciary Committee with the deepest concern for the seriousness of domestic violence in our communities and with the desire to promote healthy parent-child relationships wherever possible. This is a complex and sensitive subject which deserves close scrutiny and discussion. Thank you in advance for considering the above issues and questions.

Sincerely,



Representative Paul Seaton, Chair



Vice Chair Liz Vazquez




Representative David Talerico



Representative Louis Stutes



Representative Neal Foster



Representative Geran Tarr



Representative Adam Wool