Sectional Summary

HB 221
Protection Orders from Other Jurisdictions

In 2014, a bill sponsored by Sen. Lisa Murkowski and then Sen. Mark Begich eliminated the "Alaska Exemption" from the Violence Against Women Act (VAWA). This brought attention to the state's responsibility to enforce protection orders, also known as protective orders, issued by other jurisdictions, including tribal courts and the courts of other states. As current statutes are written, the state can only prosecute violations of a tribal or another state's protection order if a certified copy of it has been filed in an Alaska court. However, with Alaska subject to the VAWA, the state is required to enforce tribal protection orders even if the order has not been officially registered.

HB 221 follows the recommendation of State Attorney General Craig Richards to amend conflicting statutes in order to bring Alaska into compliance with the federal law.

To summarize HB 221 it is best to first look at Sections 5 and 6.

Section 5 adds a new section to statute, AS 18.65.867, regarding the enforcement and recognition of protective orders issued in other jurisdictions that have to do with stalking or sexual assault but not with domestic violence.

A protective order related to stalking or sexual assault issued "by a court of the United States, a court of another state or territory, a United States military tribunal, or a tribal court" has the same effect and must be recognized and enforced in the same manner as a protective order issued by an Alaska state court.

This section also cites United States Code Title 18, Chapter 2265, which is the part of the Violence Against Women Act that addresses protection orders originating in other jurisdictions. Chapter 2265 expressly states that orders issued in other jurisdictions do not have to be filed (registered) in an Alaska state court in order to be enforced here. Chapter 2265 also describes certain criteria the issuing jurisdiction needs to meet in order for its protection order to be given full faith and credit by another jurisdiction.

Section 5 further instructs law enforcement that a stalking- or sexual-assault-related protection order issued in another jurisdiction that appears authentic on its face should be

presumed valid. (This might be characterized as erring on the side of caution when it comes to those in need of protection.)

Section 6 addresses protective orders relating to domestic violence. It amends AS 18.66.140 to state that (just as with protective orders relating to stalking and sexual assault in the absence of domestic violence, addressed in Section 5) a protection order related to domestic violence issued in another jurisdiction must be recognized and enforced just as if it were issued by an Alaskan court, regardless of whether the protection order has been filed (registered) with an Alaskan court.

This section also cites United States Code Title 18, Chapter 2265, which includes certain criteria the issuing jurisdiction needs to meet in order for its protection order to be given full faith and credit.

Now, to return to the beginning of HB 221, the remaining sections include language adding the recognition of protection orders issued by other jurisdictions to various relevant statutes.

Section 1 addresses statutes defining what constitutes the crime of violating a protective order. HB 221 amends AS 11.56.740(a) to add language to include recognition of protection orders issued by another jurisdiction, in accordance with the provisions outlined in Sections 5 and 6 of the bill.

Section 2 further amends AS 11.56.740, in paragraph (c), to conform to Sections 5 and 6 of the bill.

Section 3 relates to release conditions of a person charged with or convicted of a crime involving domestic violence.

It amends AS 12.30.027(b) to make sure that protective orders issued by other jurisdictions are recognized in cases where a judicial officer may not allow a released person to return to the residence or place of employment of someone who has taken out a protective order against them.

Section 4 addresses statutes related to the requirement that the Child Fatality Review Team, housed in the Department of Health and Social Services, reviews a report of a death of a child if anyone in the child's immediate household was a petitioner or respondent of a protection order within the previous year. Specifically, it amends AS 12.65.130(c) to conform to Section 6 of the bill.

Section 7 adds a new subsection, AS 18.66.140(d), stating that a domestic-violence-related protection order issued in another jurisdiction that appears authentic on its face should be presumed valid. (This might be characterized as erring on the side of caution when it comes to those in need of protection.)

Sections 8 and 9 add recognition of domestic-violence-related protection orders issued by another jurisdiction in statutes concerned with divorce and dissolution of marriage.

In Section 8, under AS 25.24.210(e)(7)(D), a petition for dissolution of a marriage must state whether during the marriage either spouse was either the petitioner or respondent of a domestic-violence-related protection order issued in another jurisdiction. The change in Section 8 specifies that the protection order in question need not have been filed with a state court.

In Section 9, a court is instructed to use a heightened level of scrutiny of agreements relating to a dissolution of marriage if during the marriage either spouse was either the petitioner or respondent for a domestic-violence-related protection order issued in another jurisdiction. Similar to Section 8, Section 9 specifies that the protection order issued in another jurisdiction need not have been filed with a state court.

Prepared by the office of Representative Bryce Edgmon.