



ALASKA LEGAL SERVICES CORPORATION
ANCHORAGE AND STATEWIDE OFFICE

1016 WEST SIXTH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1963
TELEPHONE (907) 272-9431
FAX (907) 279-7417
www.alsc-law.org

February 26, 2019

Honorable Chuck Kopp
Alaska House of Representatives
State Capitol Room 216
Juneau AK, 99801

Re: HB 12 Letter of Support

Dear Representative Kopp:

Alaska Legal Services Corporation writes in strong support of HB12, which seeks to address the Alaska Supreme Court's decision in *Whalen v. Whalen*, 425 P.3d 150 (Alaska 2018). *Whalen* holds that victims of domestic violence, sexual assault, or stalking may not obtain relief in the form of a protective under Title 18 more than once for an incident of violence regardless of whether they are still in fear of their perpetrators and regardless of whether their perpetrators still pose a risk to their safety. The Alaska Supreme Court's holding did not turn on a policy decision but, rather, it's interpretation of the protective order statutes which do not clearly allow for extensions, renewals, or subsequent long term protective orders. An amendment to the statute would, therefore, easily address this issue.

ALSC provides civil legal assistance to nearly 800 victims of domestic violence each year. As the largest provider of free legal services to victims of domestic violence in the State, we are aware of the numerous instances where a domestic violence or sexual assault survivor may need a renewed or extended protective order for an incident of violence. These circumstances include:

- A victim of domestic violence that reconciles with her perpetrator for financial or other reasons. On average a victim of domestic violence leaves her perpetrator seven times before ending the relationship for good.¹ Under the *Whalen* decision, if a victim has a protective order and dismisses it to reunite with her partner, she will not be awarded another order unless she is re-victimized.
- A victim of sexual assault whose perpetrator was incarcerated. This victim will only be allowed one six-month protective order for the crime. If the victim obtained the order before or at the time that the perpetrator was incarcerated, she will not be entitled to another order upon the perpetrator's release from jail, regardless of the risk posed to her at the time.
- A victim of domestic violence whose one-year domestic violence protective order has expired but who continues to be in fear of her perpetrator due to an uptick in non-criminal, yet very threatening behaviors that occur after the protective order expires. These threatening behaviors that "walk the line" of committing a crime of domestic violence may include following the victim in her car, showing up at her home, repeatedly calling and texting the client, and making veiled threats against the victim.

¹ National Domestic Violence Hotline, *50 Obstacles to Leaving: 1-10*, June 10, 2013.

As you are undoubtedly aware, Alaska's rates of domestic violence and sexual assault are consistently among the highest in the nation and yet, as currently interpreted, our domestic violence and sexual assault protective order statutes leave major gaps in protections available for victims. Many states' domestic violence protective order statutes allow for the entry of 3-year, 5-year, or even permanent protective orders.² Extensions of protective orders beyond the initial restraining period are common.³ In Washington State, domestic violence protective orders are renewed at the petitioner's requests unless the *respondent* can show he or she will not resume acts of domestic violence.⁴

In *Whalen* the Supreme Court clearly stated that the policy regarding domestic violence protective orders, including time limits on those orders and whether extensions case be granted, falls within the purview of the Legislature. We urge the passage of HB12 to address this issue and provide greater protections for some of the most vulnerable Alaskans.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Maggie Humm", with a stylized, cursive script.

Maggie Humm
Supervising Attorney

² Battered Women's Justice Project, National Center on Protection Orders and Full Faith and Credit, [State Protection Order Duration Matrix](#), Revised 2015.

³ *Id.* For example, in Kentucky an initial order is in place for a period of 3 years and may be re-issued an unlimited number of times for periods of 3 years.

⁴ Rev. Code Wash § 26.50.060(3) states in relevant part: "The court shall grant the petition for renewal unless the respondent proves by a preponderance of the evidence that the respondent will not resume acts of domestic violence against the petitioner or the petitioner's children or family or household members when the order expires. The court may renew the protection order for another fixed time period or may enter a permanent order as provided in this section."