

**SENATE CS FOR CS FOR HOUSE BILL NO. 314(FIN)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 5/5/96**

**Referred: Rules**

**Sponsor(s): REPRESENTATIVES PARNELL, Robinson, Bunde, Elton, Toohey, Ivan, Nicholia, B.Davis**

**SENATORS Pearce, Salo, Ellis, Lincoln, Zharoff, Taylor, Torgerson, Kelly, Duncan**

**A BILL**

**FOR AN ACT ENTITLED**

**1 "An Act relating to domestic violence and to crime victims and witnesses;  
2 amending Rules 3, 4, 65, and 100, Alaska Rules of Civil Procedure, Rules 505  
3 and 613, Alaska Rules of Evidence, and Rule 9, Alaska Rules of Administration;  
4 and providing for an effective date."**

**5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

**6 \* Section 1. SHORT TITLE. This Act shall be known as the Domestic Violence  
7 Prevention and Victim Protection Act of 1996.**

**8 \* Sec. 2. AS 09.60.070(c) is amended to read:**

**9 (c) In this section, "serious criminal offense" means the following offenses:**

- 10 (1) murder in any degree;**  
**11 (2) manslaughter;**  
**12 (3) criminally negligent homicide;**  
**13 (4) assault in any degree;**  
**14 (5) kidnapping;**

- 1 (6) sexual assault in any degree;  
2 (7) sexual abuse of a minor in any degree;  
3 (8) robbery in any degree;  
4 (9) coercion;  
5 (10) extortion;  
6 (11) arson in any degree;  
7 (12) burglary in any degree;  
8 (13) criminal mischief in the first, second, or third degree;  
9 (14) driving while intoxicated or another crime resulting from the  
10 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;  
11 (15) a crime involving domestic violence, as defined in  
12 AS 18.66.990.

13 \* Sec. 3. AS 11.41.260(a) is amended to read:

14 (a) A person commits the crime of stalking in the first degree if the person  
15 violates AS 11.41.270 and

16 (1) the actions constituting the offense are in violation of an order  
17 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
18 AS 25.35.010(b) or 25.35.020;

19 (2) the actions constituting the offense are in violation of a condition  
20 of probation, release before trial, release after conviction, or parole;

21 (3) the victim is under 16 years of age;

22 (4) at any time during the course of conduct constituting the offense  
23 the defendant possessed a deadly weapon;

24 (5) the defendant has been previously convicted of a crime under this  
25 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
26 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
27 AS 11.56.740; or

28 (6) the defendant has been previously convicted of a crime, or an  
29 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
30 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of  
31 this or another jurisdiction with elements similar to a crime, or an attempt or

solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460, AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

\* **Sec. 4.** AS 11.46.350(a) is amended to read:

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010(b) or 25.35.020.

\* **Sec. 5.** AS 11.56.740(a) is amended to read:

(a) A person commits the crime of violating a

(1) protective order if the person is subject to a protective order containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act in violation of that provision;

(2) domestic violence restraining order if [(1)] the person knowingly violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or 25.35.020

(A) restraining the person from communicating directly or indirectly with another; and

(B) [(2)] at the time the restraining order was issued, the court made a finding that the person had subjected another to domestic violence.

\* **Sec. 6.** AS 11.56.740 is amended by adding a new subsection to read:

(c) In this section, "protective order" means an order issued or filed under AS 18.66.100 - 18.66.180.

\* **Sec. 7.** AS 11.61.200(a)(8) is amended to read:

(8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on premises or in a propelled vehicle in violation of a provision of an order

1 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
2 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a  
3 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

4 \* **Sec. 8.** AS 12.25.030(b) is repealed and reenacted to read:

5 (b) In addition to the authority granted by (a) of this section, a peace officer

6 (1) shall make an arrest under the circumstances described in  
7 AS 18.65.530;

8 (2) without a warrant may arrest a person if the officer has probable  
9 cause to believe the person has, either in or outside the presence of the officer

10 (A) committed a crime involving domestic violence, whether the  
11 crime is a felony or a misdemeanor; in this subparagraph, "crime involving  
12 domestic violence" has the meaning given in AS 18.66.990;

13 (B) committed the crime of violating a protective order in  
14 violation of AS 11.56.740; or

15 (C) violated a condition of release imposed under AS 12.30.025  
16 or 12.30.027;

17 (3) without a warrant may arrest a person when the peace officer has  
18 reasonable cause for believing that the person has

19 (A) committed a crime under or violated conditions imposed as  
20 part of the person's release before trial on misdemeanor charges brought under

21 (i) AS 04.16.050 or an ordinance with similar elements;

22 or

23 (ii) AS 11.41.270;

24 (B) violated AS 04.16.050; however, unless there is a lawful  
25 reason for further detention, a person who is under the age of 18 and who has  
26 been arrested for violating AS 04.16.050 shall be cited for the offense and  
27 released to the person's parent, guardian, or legal custodian; or

28 (C) violated conditions imposed as part of the person's release  
29 before trial on felony charges brought under AS 11.41.410 - 11.41.455.

30 \* **Sec. 9.** AS 12.25.180(a) is amended to read:

31 (a) When a person is stopped or contacted by a peace officer for the

1 commission of a misdemeanor or the violation of a municipal ordinance, the person  
2 may, in the discretion of the contacting peace officer, be issued a citation instead of  
3 being taken before a judge or magistrate under AS 12.25.150, unless

4 (1) the person does not furnish satisfactory evidence of identity;

5 (2) the contacting officer has reasonable and probable cause to believe  
6 the person is a danger to self or others;

7 (3) the crime for which the person is contacted is one involving  
8 violence or harm to another person or to property; [OR]

9 (4) the person asks to be taken before a judge or magistrate under  
10 AS 12.25.150; or

11 (5) the peace officer has probable cause to believe the person  
12 committed a crime involving domestic violence; in this paragraph, "crime  
13 involving domestic violence" has the meaning given in AS 18.66.990.

14 \* **Sec. 10.** AS 12.30.025 is repealed and reenacted to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING  
16 STALKING. (a) In determining the conditions of release under AS 12.30.020 in  
17 cases involving stalking but not domestic violence, the court shall consider the  
18 following conditions and impose one or more conditions it considers reasonably  
19 necessary to protect the alleged victim of the stalking, including ordering the defendant

20 (1) not to subject the victim to further stalking;

21 (2) not to contact the victim other than through counsel;

22 (3) to engage in counseling; if the court directs the defendant to engage  
23 in personal counseling, the court shall provide in the order that the counseling must  
24 propose alternatives to aggression if that type of counseling is available;

25 (4) to refrain from the consumption of alcohol or the use of drugs.

26 (b) As used in this section,

27 (1) "domestic violence" has the meaning given in AS 18.66.990;

28 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

29 \* **Sec. 11.** AS 12.30 is amended by adding a new section to read:

30 Sec. 12.30.027. RELEASE IN DOMESTIC VIOLENCE CASES. (a) Before  
31 ordering release before or after trial, or pending appeal, of a person charged with or

1 convicted of a crime involving domestic violence, the court shall consider the safety  
2 of the alleged victim or other household member. To protect the alleged victim,  
3 household member, and the public and to reasonably assure the person's appearance,  
4 the court may impose bail and any of the conditions authorized under AS 12.30.020,  
5 any of the provisions of AS 18.66.100(c)(1) - (7) and (11), and any other condition  
6 necessary to protect the alleged victim, household member, and the public, and to  
7 ensure the appearance of the person in court, including ordering the person to refrain  
8 from the consumption of alcohol.

9 (b) A court may not order or permit a person released under (a) of this section  
10 to return to the residence of the alleged victim or the residence of a petitioner who has  
11 a protective order directed to the person and issued or filed under AS 18.66.100 -  
12 18.66.180.

13 (c) If the court imposes conditions of release under (a) of this section, it shall  
14 (1) issue a written order specifying the conditions of release;  
15 (2) provide a copy of the order to the person arrested or charged; and  
16 (3) immediately distribute a copy of the order to the law enforcement  
17 agency that arrested the person.

18 (d) When a person is released from custody under (a) of this section,  
19 (1) from a correctional facility, the correctional facility shall notify the  
20 prosecuting authority and the prosecuting authority shall make reasonable efforts to  
21 immediately notify the alleged victim of the release, and to furnish the alleged victim  
22 with a copy of the order setting any conditions of release;

23 (2) from other than a correctional facility, the arresting authority shall  
24 make reasonable efforts to immediately notify the alleged victim of the release, and  
25 to furnish the alleged victim with a copy of the order setting any conditions of release.

26 (e) A person arrested for a crime involving domestic violence may not be  
27 released from custody until the person has appeared in person before a judicial officer  
28 or telephonically for arraignment.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 (g) In this section, "crime involving domestic violence" has the meaning given

1 in AS 18.66.990.

2 \* **Sec. 12.** AS 12.55.015 is amended by adding a new subsection to read:

3 (g) Notwithstanding (a) of this section, the court shall order the forfeiture to  
4 the commissioner of public safety or a municipal law enforcement agency of a deadly  
5 weapon that was in the actual possession of or used by the defendant during the  
6 commission of a crime involving domestic violence.

7 \* **Sec. 13.** AS 12.55 is amended by adding a new section to read:

8 Sec. 12.55.101. ADDITIONAL CONDITIONS OF PROBATION FOR  
9 DOMESTIC VIOLENCE CRIMES. (a) Before granting probation to a person  
10 convicted of a crime involving domestic violence, the court shall consider the safety  
11 and protection of the victim and any member of the victim's family. If a person  
12 convicted of a crime involving domestic violence is placed on probation, the court may  
13 order the conditions authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11),  
14 and may

15 (1) require the defendant to participate in and complete to the  
16 satisfaction of the court one or more programs for the rehabilitation of perpetrators  
17 of domestic violence that meet the standards set by the Department of Corrections  
18 under AS 44.28.020(b), if the program is available in the community where the  
19 defendant resides;

20 (2) require the defendant to refrain from the consumption of alcohol;  
21 and

22 (3) impose any other condition necessary to protect the victim and any  
23 members of the victim's family, or to rehabilitate the defendant.

24 (b) If the defendant is not in custody, the defendant shall pay the costs of an  
25 evaluation or a program of rehabilitation ordered under (a)(1) - (3) of this section. If  
26 the defendant is in custody, the responsibility for costs shall be as provided in  
27 AS 33.30.028.

28 \* **Sec. 14.** AS 12.55.135(c) is amended to read:

29 (c) A defendant convicted of assault in the fourth degree committed in  
30 violation of the provisions of an order issued or filed under AS 18.66.100 - 18.66.180  
31 or issued under former AS 25.35.010 or 25.35.020 shall be sentenced to a minimum

1 term of imprisonment of 20 days.

2 \* **Sec. 15.** AS 12.55.185(3) is repealed and reenacted to read:

3 (3) "domestic violence" has the meaning given in AS 18.66.990;

4 \* **Sec. 16.** AS 12.61.015(a) is amended to read:

5 (a) If a victim of a felony or a **crime involving** domestic violence  
6 [ASSAULT] requests, the prosecuting attorney shall make a reasonable effort to

7 (1) confer with the person against whom the offense has been  
8 perpetrated about that person's testimony before the defendant's trial;

9 (2) in a manner reasonably calculated to give prompt actual notice,  
10 notify the victim

11 (A) of the defendant's conviction and the crimes of which the  
12 defendant was convicted;

13 (B) of the victim's right in a case that is a felony to make a  
14 written or oral statement for use in preparation of the defendant's presentence  
15 report, and of the victim's right to appear personally at the defendant's  
16 sentencing hearing to present a written statement and to give sworn testimony  
17 or an unsworn oral presentation;

18 (C) of the address and telephone number of the office that will  
19 prepare the presentence report; and

20 (D) of the time and place of the sentencing proceeding;

21 (3) notify the victim in writing of the final disposition of the case  
22 within 30 days after final disposition of the case;

23 **(4) confer with the victim of a crime involving domestic violence**  
24 **concerning a proposed plea agreement before entering into an agreement.**

25 \* **Sec. 17.** AS 12.61.120(b) is amended to read:

26 (b) If the defendant is proceeding without counsel in a case involving a  
27 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, **11.56.810,**  
28 **AS 11.61.190 - 11.61.210, or a crime involving domestic violence,** [AS 11.56.810,  
29 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a  
30 continuing threat to the victim or witness to the offense charged, the court shall  
31 protect the address and telephone number of the victim or witness by providing the



1 information only to a person specified by the court or by imposing other restrictions  
2 that the court considers necessary. When an address or telephone number is released  
3 to a person specified by the court under this subsection, that person, who shall be  
4 ordered not to disclose the information to the defendant, shall contact the victim or  
5 witness on behalf of the defendant, and the defendant shall meet or speak with the  
6 victim or witness only in the presence of that person.

7 \* **Sec. 18.** AS 12.61.120(c) is amended to read:

8 (c) If a defendant or a person acting on behalf of a defendant  
9 [REPRESENTING THE DEFENDANT, INCLUDING THE DEFENDANT'S  
10 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS  
11 SECTION,] contacts the victim of an offense with which the defendant is or could be  
12 charged, the person shall clearly inform the victim

13 (1) of the person's identity and specific association with the defendant;

14 (2) that the victim does not have to talk to the person unless the victim  
15 wishes; and

16 (3) that the victim may have a prosecuting attorney or other person  
17 present during an interview.

18 \* **Sec. 19.** AS 12.61.120 is amended by adding new subsections to read:

19 (d) If a defendant or a person acting on behalf of a defendant wishes to make  
20 a recording of statements of the victim of an offense with which the defendant is or  
21 could be charged in this or another jurisdiction, or of a witness, the person shall, before  
22 recording begins, obtain the consent of the victim or witness to record the statement by  
23 clearly informing the victim or witness (1) of the information set out in (c) of this  
24 section, (2) that the statement will be recorded if the victim or witness consents, and (3)  
25 that the victim or witness may obtain a transcript or other copy of the recorded statement  
26 upon request. When recording begins, the person making the recording shall indicate in  
27 the recording that the victim or witness has been informed as required by this subsection,  
28 and the victim or witness shall state in the recording that consent of the victim or witness  
29 to the recording has been given.

30 (e) If a victim or witness requests a transcript or other copy of a recorded  
31 statement taken under (d) of this section, the defense shall prepare the transcript or other  
32 copy and provide it to the person whose statement was recorded.

(f) In this section, "recording" means capturing a statement of a person, whether by magnetic tape or other electronic or electromagnetic means.

\* **Sec. 20.** AS 12.61 is amended by adding new sections to read:

Sec. 12.61.125. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a) The defendant accused of a sexual offense, the defendant's counsel, or an investigator or other person acting on behalf of the defendant, may not

(1) notwithstanding AS 12.61.120, contact the victim of the offense or a witness to the offense if the victim or witness, or the parent or guardian of the victim or witness if the victim or witness is a minor, has informed the defendant or the defendant's counsel in writing or in person that the victim or witness does not wish to be contacted by the defense; a victim or witness who has not informed the defendant or the defendant's counsel in writing or in person that the victim does not wish to be contacted by the defense is entitled to rights as provided in AS 12.61.120;

(2) obtain a statement from the victim of the offense or a witness to the offense, unless,

(A) if the statement is taken as a recording, the recording is taken in compliance with AS 12.61.120; or

(B) if the statement is not taken as a recording, written authorization is first obtained from the victim or witness, or from the parent or guardian of the victim or witness if the victim or witness is a minor; the written authorization must state that the victim or witness is aware that there is no legal requirement that the victim or witness talk to the defense; a victim or witness making a statement under this subparagraph remains entitled to rights as provided in AS 12.61.120.

(b) A defendant who is the parent or guardian of a minor victim or witness may not provide the authorization required under (a) of the section.

(c) If an attorney, or a person acting on behalf of the defendant for an attorney, violates this section, the court shall refer the violation to the Disciplinary Board of the Alaska Bar Association as a grievance.

(d) In this section,

(1) "recording" has the meaning given in AS 12.61.120;

(2) "sexual offense" means a violation of AS 11.41.410 - 11.41.470.

1           Sec. 12.61.127.   INADMISSIBILITY OF STATEMENTS TAKEN IN  
2 VIOLATION OF AS 12.61.120 or 12.61.125. A statement obtained from a victim or  
3 witness in violation of AS 12.61.120 or 12.61.125 is presumed inadmissible in a  
4 prosecution of the defendant. To overcome the presumption of inadmissibility, the  
5 defendant must prove by clear and convincing evidence that

6                       (1) the statement is reliable;

7                       (2) similar evidence is unavailable from any other source; and

8                       (3) failure to introduce the statement would substantially undermine the  
9 reliability of the fact-finding process and result in manifest injustice.

10   \* **Sec. 21.** AS 12.61.900 is amended by adding new paragraphs to read:

11                       (3) "crime involving domestic violence" has the meaning given in  
12 AS 18.66.990;

13                       (4) "person acting on behalf of a defendant" includes the defendant's  
14 attorney, an agent of the defendant or the defendant's attorney, or a person specified by  
15 the court under AS 12.61.120(b) or an agent of that person, but does not include the  
16 defendant;

17                       (5) "witness" means a person contacted in connection with a criminal  
18 case because the person may have knowledge or information about the criminal case.

19   \* **Sec. 22.** AS 12.62.900(22) is amended to read:

20                       (22) "serious offense" means a conviction for a felony offense, **a crime**  
21 **involving domestic violence**, or a violation or attempted violation of any of the  
22 following laws, or of the laws of another jurisdiction with substantially similar  
23 elements:

24                               (A) AS 11.41.410 - 11.41.470;

25                               (B) AS 11.51.130(a)(1), (3), or (5);

26                               (C) AS 11.61.110(a)(7);

27                               (D) AS 11.66.100 - 11.66.130; or

28                               (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -  
29 11.40.420, if committed before January 1, 1980;

30   \* **Sec. 23.** AS 12.62.900 is amended by adding a new paragraph to read:

31                       (24) "crime involving domestic violence" has the meaning given in  
32 AS 18.66.990.

1     \* **Sec. 24.** AS 18.65.240(a) is amended to read:

2             (a) A person may not be appointed as a police officer, except on a  
3             probationary basis, unless the person (1) has satisfactorily completed a basic program  
4             of police training approved by the council, **which includes at least 12 hours of**  
5             **instruction regarding domestic violence as defined in AS 18.66.990,** and (2)  
6             possesses other qualifications the council has established for the employment of police  
7             officers, including [BUT NOT LIMITED TO] minimum age, education, physical and  
8             mental standards, citizenship, moral character, and experience. The council shall  
9             prescribe the means of presenting evidence of fulfillment of these requirements.

10    \* **Sec. 25.** AS 18.65.242(b) is amended to read:

11             (b) The council shall

12                 (1) prescribe the means of presenting evidence of fulfillment of the  
13             requirements set out in (a) of this section; and

14                 (2) issue a certificate evidencing satisfaction of the requirements of (a)  
15             of this section to an applicant who

16                         (A) satisfies the requirements of (a)(1) of this section; and

17                         (B) meets the minimum education standards of (a)(2) of this  
18             section by satisfactorily completing a training program for correctional,  
19             probation, or parole officers established under AS 18.65.230, **including**  
20             **training regarding domestic violence that contains the subjects set out in**  
21             **AS 18.66.310(d),** or a course of instruction in another jurisdiction equivalent  
22             in content and quality to that required by the council for approved correctional,  
23             probation, or parole officer education and training programs in this state.

24    \* **Sec. 26.** AS 18.65.510 is amended to read:

25             Sec. 18.65.510. DOMESTIC VIOLENCE TRAINING. (a) Each established  
26             police training program in the state shall provide training that acquaints police officers  
27             with

28                 (1) laws relating to substantive crimes and rules of criminal procedure  
29             applicable in cases involving domestic violence;

30                 (2) techniques for handling incidents of domestic violence that promote  
31             the safety of the victim and the officer and that reduce the likelihood of recurrence;

1 (3) the investigation and management of cases involving domestic  
2 violence and report writing for those cases;

3 (4) organizations in the state that offer aid or shelter to victims of  
4 domestic violence;

5 (5) [(4)] procedures applicable in the prosecution of cases involving  
6 domestic violence;

7 (6) [(5)] orders that may be issued by or filed with a court under  
8 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020]; [AND]

9 (7) [(6)] the notification to be given to victims of domestic violence  
10 under AS 18.65.520; and

11 (8) the subjects set out in AS 18.66.310(d).

12 (b) In providing a training program under this section, each agency or  
13 institution offering an established police training program shall consult with the  
14 Council on Domestic Violence and Sexual Assault and interested individuals and  
15 organizations providing assistance to victims of domestic violence.

16 \* **Sec. 27.** AS 18.65 is amended by adding a new section to read:

17 Sec. 18.65.515. DUTIES OF PEACE OFFICER IN A CRIME INVOLVING  
18 DOMESTIC VIOLENCE. (a) A peace officer investigating a crime involving  
19 domestic violence shall protect the victim and any member of the victim's family and  
20 prevent further violence by

21 (1) transporting an adult victim and any member of the victim's family  
22 from the place of the offense or the place of contact, to a location within the  
23 community where the offense occurred that is a shelter, a safe home, or another  
24 location in the community requested by the victim;

25 (2) assisting the victim in removing from the residence essential items  
26 belonging to the victim, such as clothing, vehicles, medication, personal records, and  
27 legal documents;

28 (3) assisting the victim and any member of the victim's family in  
29 obtaining medical treatment necessitated by the offense, by contacting emergency  
30 medical services or by transporting the victim to a local medical facility, if available  
31 in the community where the offense occurred; and

1 (4) providing notice of the rights of victims and services available to  
2 victims of domestic violence as provided in AS 18.65.520.

3 (b) If a peace officer investigating a crime involving domestic violence  
4 determines that it is necessary to protect the victim or the victim's family from  
5 domestic violence or to protect the officer or the public during the investigation, the  
6 officer may (1) seize a deadly weapon in plain view of the officer, and (2) if a deadly  
7 weapon was actually possessed during or used in the domestic violence, seize all  
8 deadly weapons owned, used, possessed, or within the control of the alleged  
9 perpetrator. If the weapon is not needed as evidence in a criminal case, the law  
10 enforcement agency having custody of the weapon, within 24 hours of making the  
11 determination that the weapon is not needed as evidence in a criminal case, shall make  
12 the weapon available for pickup by the owner of the weapon during regular business  
13 hours.

14 \* **Sec. 28.** AS 18.65.520(a) is repealed and reenacted to read:

15 (a) A peace officer investigating a crime involving domestic violence shall  
16 orally and in writing inform the victim of the rights of victims of domestic violence  
17 and the services available to them. The notice must be in substantially the following  
18 form:

19 If you are the victim of domestic violence and you believe that  
20 law enforcement protection is needed for your physical safety, you have  
21 the right to request that the officer assist in providing for your safety,  
22 including asking for an emergency protective order.

23 You may also request the officer to assist you in obtaining your  
24 essential personal belongings and locating and taking you to a safe  
25 place, including a designated meeting place or shelter, the residence of  
26 a household member or friend, or a similar place of safety. In some  
27 places in Alaska there are organizations that provide aid and shelter to  
28 victims of domestic violence. The nearest organization is located at

29 \_\_\_\_\_.

30 If you are in need of medical treatment, you may request that  
31 the officer assist you in obtaining medical treatment.

1                   You may obtain information about whether the prosecuting  
2 attorney will file a criminal complaint about the domestic violence.  
3 Additionally, the victim/witness assistance program of the Department  
4 of Law may be able to help you. This information is available from the  
5 district attorney's office, which is located at \_\_\_\_\_.

6                   You also have the right to file a petition in court requesting a  
7 protective order that may include any of the following provisions:

8                   (1) prohibit your abuser from threatening to commit or  
9 committing further acts of domestic violence;

10                  (2) prohibit your abuser from stalking, harassing,  
11 telephoning, contacting, or otherwise communicating with you, directly  
12 or indirectly;

13                  (3) remove your abuser from your residence;

14                  (4) order your abuser to stay away from your residence,  
15 school, place of employment, or any other specified place frequented by  
16 you or another designated household member;

17                  (5) prohibit your abuser from entering your vehicle or  
18 a vehicle you occupy;

19                  (6) prohibit your abuser from using or possessing a  
20 deadly weapon if the court finds your abuser was in the actual  
21 possession of or used a weapon during the commission of your abuse;

22                  (7) direct your abuser to surrender any firearm owned or  
23 possessed by that person if the court finds your abuser was in the actual  
24 possession of or used a firearm during the commission of your abuse;

25                  (8) request a peace officer to accompany you to your  
26 residence to ensure your safe possession of the residence, vehicle, or  
27 other items, or to ensure your safe removal of personal items from the  
28 residence;

29                  (9) award temporary custody of a minor child to the  
30 petitioner and may arrange for visitation with a minor child if the safety  
31 of the child and the petitioner can be protected;

1 (10) grant you possession and use of a vehicle and other  
2 essential personal effects;

3 (11) prohibit your abuser from consuming controlled  
4 substances;

5 (12) require your abuser to pay support for you or a  
6 minor child in your care if there is an independent legal obligation of  
7 your abuser to support you or the child;

8 (13) require your abuser to reimburse you for your  
9 expenses caused by domestic violence, including medical bills, or for  
10 your costs in getting a protective order;

11 (14) order your abuser to participate in an intervention  
12 program for batterers; and

13 (15) other relief the court determines to be necessary for  
14 your safety.

15 The forms you need to obtain a protective order are available  
16 from the nearest court. It is not necessary to have an attorney to obtain  
17 a protective order, but you may consult an attorney if you choose. If  
18 you would like help obtaining a protective order, you may contact the  
19 nearest domestic violence program located at \_\_\_\_\_. The  
20 program can also tell you about other resources available in this  
21 community for information about domestic violence, treatment of  
22 injuries, and places of safety and shelter.

23 You may also qualify for compensation from the Violent Crimes  
24 Compensation Board. The board may be contacted at \_\_\_\_\_  
25 \_\_\_\_\_.

26 \* **Sec. 29.** AS 18.65 is amended by adding new sections to article 6 to read:

27 Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING  
28 DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND  
29 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)  
30 of this section, a peace officer, with or without a warrant, shall arrest a person if the  
31 officer has probable cause to believe the person has, either in or outside the presence



1 of the officer, within the previous 12 hours,

2 (1) committed domestic violence, except an offense under  
3 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

4 (2) committed the crime of violating a protective order in violation of  
5 AS 11.56.740;

6 (3) violated a condition of release imposed under AS 12.30.027.

7 (b) If a peace officer receives complaints of domestic violence from more than  
8 one person arising from the same incident, the officer shall evaluate the conduct of  
9 each person to determine who was the principal physical aggressor. If the officer  
10 determines that one person was the principal physical aggressor, the other person or  
11 persons need not be arrested. In determining whether a person is a principal physical  
12 aggressor, the officer shall consider

13 (1) prior complaints of domestic violence;

14 (2) the relative severity of the injuries inflicted on each person;

15 (3) the likelihood of future injury from domestic violence to each  
16 person; and

17 (4) whether one of the persons acted in defense of self or others.

18 (c) A peace officer is not required to make an arrest under (a) of this section  
19 if the officer has received authorization not to arrest from a prosecuting attorney in the  
20 jurisdiction in which the offense under investigation arose.

21 (d) When investigating a crime involving domestic violence, a peace officer  
22 may not threaten or suggest the possible arrest of all persons involved in the same  
23 incident in a manner that would have a tendency to discourage requests for  
24 intervention by law enforcement in incidents involving domestic violence.

25 (e) In addition to the contents of any other report, a peace officer who does  
26 not make an arrest after investigating a complaint of domestic violence, or who arrests  
27 two or more persons based on the same incident, shall describe in writing the reasons  
28 for not making an arrest or for arresting more than one person.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)

1 The Department of Public Safety shall maintain a central registry of protective orders  
2 issued by or filed with a court of this state under AS 18.66.100 - 18.66.180. The  
3 registry must include for each protective order the names of the petitioner and  
4 respondent, their dates of birth, and the conditions and duration of the order. The  
5 registry shall retain a record of the protective order after it has expired.

6 (b) A peace officer receiving a protective order from a court under  
7 AS 18.66.100 - 18.66.180, a modified order issued under AS 18.66.120, or an order  
8 dismissing a protective order, must take reasonable steps to ensure that the order,  
9 modified order, or dismissal is entered into the central registry within 24 hours after  
10 being received.

11 (c) A petitioner or respondent who is the subject of a protective order may  
12 request the Department of Public Safety to correct information about the order in the  
13 central registry. The person requesting the correction has the burden of proving that  
14 the information is inaccurate or incomplete. The person may appeal an adverse  
15 decision to the court under applicable court rules for appealing the decision of an  
16 administrative agency. On appeal, the appellant has the burden of showing that the  
17 department's action was an abuse of discretion. An appeal filed under this subsection  
18 may not collaterally attack a protective order, challenge the grounds upon which the  
19 order was based, or challenge the evidence submitted in support of the order.

20 (d) The Department of Public Safety may adopt regulations to implement this  
21 section.

22 (e) A person may not bring a civil action for damages for a failure to comply  
23 with the provisions of this section.

24 Sec. 18.65.590. DEFINITION. In AS 18.65.510 - 18.65.590, "domestic  
25 violence" has the meaning given in AS 18.66.990.

26 \* **Sec. 30.** AS 18.65.705 is amended to read:

27 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
28 qualified to receive and hold a permit to carry a concealed handgun if the person

29 (1) is 21 years of age or older;

30 (2) is eligible to own or possess a firearm under the laws of this state  
31 and under federal law;

1 (3) has not been convicted of and is not currently charged under a  
2 complaint, information, indictment, or presentment with a felony under the laws of this  
3 state or a similar law of another jurisdiction;

4 (4) has not been convicted, within the five years immediately preceding  
5 the application, of, and is not currently charged under a complaint, information,  
6 indictment, or presentment with any of the following misdemeanor offenses or similar  
7 laws of another jurisdiction:

8 (A) AS 11.41.230, 11.41.250, 11.41.270;

9 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

10 (C) AS 11.51.130;

11 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,  
12 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,  
13 11.56.805;

14 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

15 [OR]

16 (F) AS 11.71.050, 11.71.060; **or**

17 **(G) a crime involving domestic violence as defined in**  
18 **AS 18.66.990;**

19 (5) has not been convicted of two or more class A misdemeanors of  
20 this state or similar laws of another jurisdiction within the five years immediately  
21 preceding the application;

22 (6) has not within the 10 years immediately preceding the application  
23 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

24 (7) is not now suffering, and has not within the five years immediately  
25 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

26 (8) has not been adjudicated as mentally incapacitated by a court of this  
27 state, another state, territory, or jurisdiction, or of the United States, unless the  
28 guardianship or similar arrangement has been closed or terminated and five years have  
29 elapsed since the closure or other termination;

30 (9) is a resident of the state and has been for the one year immediately  
31 preceding the application for a permit;

1 (10) has not been discharged from the armed forces of the United  
2 States under dishonorable conditions;

3 (11) is not an alien who is residing in the United States illegally or a  
4 former citizen of the United States who has renounced the person's citizenship;

5 (12) is not an unlawful user of, or addicted to, a controlled substance;

6 (13) is not now the **respondent in a protective order under**  
7 **AS 18.66.100 - 18.66.180 or the** subject of an injunction under **former** AS 25.35.010  
8 - 25.35.020 unless the **protective order or** injunction has been dissolved or has  
9 expired;

10 (14) is not now in and has not in the three years immediately preceding  
11 the application been ordered by a court to complete an alcohol treatment program;

12 (15) is not now in and has not in the three years immediately preceding  
13 the application entered a substance abuse treatment program; and

14 (16) has demonstrated competence with handguns as provided in  
15 AS 18.65.715.

16 \* **Sec. 31.** AS 18.65.735(a) is amended to read:

17 (a) The department shall immediately suspend a permit to carry a concealed  
18 handgun if a permittee is arrested for or formally charged with a crime that would  
19 disqualify the permittee under AS 18.65.705(3) - (4) from being eligible for a permit  
20 to carry a concealed handgun, [OR] is the **respondent in a protective order under**  
21 **AS 18.66.100 - 18.66.180, or is the** subject of an injunction under **former**  
22 AS 25.35.010 - 25.35.020. A suspension of a permit remains in effect until the permit  
23 is revoked under AS 18.65.740, the department has been notified of a disposition  
24 favorable to the defendant or the defendant has been released from custody without  
25 being charged, or the **protective order under AS 18.66.100 - 18.66.180 or the**  
26 **injunction under former** AS 25.35.010 - 25.35.020 is dissolved or expires without  
27 being renewed. In this subsection, "disposition favorable to the defendant" means a  
28 dismissal by the prosecutor or an adjudication by a court other than a conviction or a  
29 suspended imposition of sentence.

30 \* **Sec. 32.** AS 18.66.050 is amended by adding new paragraphs to read:

31 (12) consult with the Department of Health and Social Services in the

1 formulation of standards and procedures for the delivery of services to victims of  
2 domestic violence by health care facilities and practitioners of healing arts and  
3 personnel in those facilities as required in AS 18.66.300;

4 (13) consult with the Alaska Police Standards Council and other police  
5 training programs in the state to develop training programs regarding domestic violence  
6 for police officers and for correction, probation, and parole officers;

7 (14) consult with public employers, the Alaska Supreme Court, school  
8 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to  
9 provide continuing education courses in domestic violence to employees.

10 \* **Sec. 33.** AS 18.66 is amended by adding new sections to read:

11 **ARTICLE 2. PROTECTIVE ORDERS.**

12 **Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;**  
13 **RELIEF.** (a) A person who is or has been a victim of a crime involving domestic  
14 violence may file a petition in the district or superior court for a protective order  
15 against a household member. A parent, guardian, or other representative appointed by  
16 the court under this section, may file a petition for a protective order on behalf of a  
17 minor. The court may appoint a guardian ad litem or attorney to represent the minor.  
18 Notwithstanding AS 25.24.310 or this section, the office of public advocacy may not  
19 be appointed as a guardian ad litem or attorney for a minor in a petition filed under  
20 this section unless the petition has been filed on behalf of the minor.

21 (b) When a petition for a protective order is filed, the court shall schedule a  
22 hearing, and provide at least 10 days' notice to the respondent of the hearing and of  
23 the respondent's right to appear and be heard, either in person or by an attorney. If  
24 the court finds by a preponderance of evidence that the respondent has committed a  
25 crime involving domestic violence against the petitioner, regardless of whether the  
26 respondent appears at the hearing, the court may order any relief available under (c)  
27 of this section. The provisions of a protective order issued under

28 (1) (c)(1) of this section is effective until further order of the court;

29 (2) (c)(2) - (16) of this section are effective for six months unless  
30 earlier dissolved by court order.

31 (c) A protective order under this section may

1 (1) prohibit the respondent from threatening to commit or committing  
2 domestic violence, stalking, or harassment;

3 (2) prohibit the respondent from telephoning, contacting, or otherwise  
4 communicating directly or indirectly with the petitioner;

5 (3) remove and exclude the respondent from the residence of the  
6 petitioner, regardless of ownership of the residence;

7 (4) direct the respondent to stay away from the residence, school, or  
8 place of employment of the petitioner or any specified place frequented by the  
9 petitioner or any designated household member;

10 (5) prohibit the respondent from entering a propelled vehicle in the  
11 possession of or occupied by the petitioner;

12 (6) prohibit the respondent from using or possessing a deadly weapon  
13 if the court finds the respondent was in the actual possession of or used a weapon  
14 during the commission of domestic violence;

15 (7) direct the respondent to surrender any firearm owned or possessed  
16 by the respondent if the court finds that the respondent was in the actual possession  
17 of or used a firearm during the commission of the domestic violence;

18 (8) request a peace officer to accompany the petitioner to the  
19 petitioner's residence to ensure that the petitioner

20 (A) safely obtains possession of the petitioner's residence,  
21 vehicle, or personal items; and

22 (B) is able to safely remove a vehicle or personal items from  
23 the petitioner's residence;

24 (9) award temporary custody of a minor child to the petitioner and may  
25 arrange for visitation with a minor child if the safety of the child and the petitioner can  
26 be protected; if visitation is allowed, the court may order visitation under the  
27 conditions provided in AS 25.20.061;

28 (10) give the petitioner possession and use of a vehicle and other  
29 essential personal items, regardless of ownership of the items;

30 (11) prohibit the respondent from consuming controlled substances;

31 (12) require the respondent to pay support for the petitioner or a minor

child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or child;

(13) require the respondent to reimburse the petitioner or other person for expenses associated with the domestic violence, including medical expenses, counseling, shelter, and repair or replacement of damaged property;

(14) require the respondent to pay costs and fees incurred by the petitioner in bringing the action under this chapter;

(15) order the respondent, at the respondent's expense, to participate in (A) a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment for the abuse of alcohol or controlled substances, or both;

(16) order other relief the court determines necessary to protect the petitioner or any household member.

(d) If the court issues a protective order under this section, it shall

(1) make reasonable efforts to ensure that the order is understood by the petitioner and by the respondent, if present; and

(2) have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.

(e) A court may not deny a petition for a protective order under this section solely because of a lapse of time between an act of domestic violence and the filing of the petition.

#### Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.

(a) A person who is a victim of a crime involving domestic violence may file a petition under AS 18.66.100(a) and request an ex parte protective order. If the court finds that the petition establishes probable cause that a crime involving domestic violence has occurred, it is necessary to protect the petitioner from domestic violence, and if the petitioner has certified to the court in writing the efforts, if any, that have been made to provide notice to the respondent, the court shall ex parte and without notice to the respondent issue a protective order. An ex parte protective order may grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex

1        parte protective order expires 20 days after it is issued unless dissolved earlier by the  
2        court at the request of either the petitioner or the respondent and after notice and, if  
3        requested, a hearing. If a court issues an ex parte protective order, the court shall have  
4        the order delivered to the appropriate local law enforcement agency for expedited  
5        service and for entry into the central registry of protective orders under AS 18.65.540.

6                (b) A peace officer, on behalf of and with the consent of a victim of a crime  
7        involving domestic violence, may request an emergency protective order from a  
8        judicial officer. The request may be made orally or in writing based upon the sworn  
9        statement of a peace officer, and in person or by telephone. If the court finds probable  
10       cause to believe that the victim is in immediate danger of domestic violence based on  
11       an allegation of the recent commission of a crime involving domestic violence, the  
12       court ex parte shall issue an emergency protective order. In an emergency protective  
13       order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),  
14       (10), (11), and (16). An emergency protective order expires 72 hours after it is issued  
15       unless dissolved earlier by the court at the request of the petitioner.

16                (c) A peace officer who obtains an emergency protective order under (b) of  
17        this section shall

18                        (1) place the provisions of an oral order in writing on a form provided  
19        by the court and file the written order with the issuing court by the end of the judicial  
20        day after it was issued;

21                        (2) provide a copy of the order to the petitioner;

22                        (3) serve a copy of the order on the respondent; and

23                        (4) comply with the requirements of AS 18.65.540 for ensuring that the  
24        order is entered into the central registry of protective orders under AS 18.65.540.

25                (d) A court may not deny a petition for an ex parte protective order filed under  
26        (a) of this section solely because of a lapse of time between an act of domestic  
27        violence and the filing of the petition.

28                Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either  
29        the petitioner or the respondent may request modification of a protective order. If a  
30        request is made for modification of

31                        (1) an ex parte protective order under AS 18.66.110(a), the court shall



1 schedule a hearing on three days' notice or on shorter notice as the court may  
2 prescribe; the court shall hear and rule on the request in an expeditious manner; or

3 (2) a protective order after notice and hearing under AS 18.66.100(b),  
4 the court shall schedule a hearing within 20 days after the date the request is made,  
5 except that if the court finds that the request is meritless on its face, the court may  
6 deny the request without further hearing.

7 (b) If a request for a modification is made under this section and the  
8 respondent raises an issue not raised by the petitioner, the court may allow the  
9 petitioner additional time to respond.

10 (c) If the court modifies a protective order under this section, it shall issue a  
11 modified order and shall

12 (1) make reasonable efforts to ensure that the order is understood by  
13 the petitioner and by the respondent, if present at the hearing; and

14 (2) have the order delivered to the appropriate local law enforcement  
15 agency for expedited service and for entry into the central registry of protective orders  
16 under AS 18.65.540.

17 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in  
18 a protective order issued under AS 18.66.100 - 18.66.180 is prohibited from  
19 communicating with the petitioner, excluded from the residence of the petitioner, or  
20 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an  
21 invitation by the petitioner to communicate, enter the residence or vehicle, or have  
22 other prohibited contact with the petitioner does not waive or nullify any provision in  
23 a protective order.

24 (b) A court may not grant protective orders against the petitioner and the  
25 respondent in the same action under this chapter.

26 (c) A court may not order parties into mediation or refer them to mediation  
27 for resolution of the issues arising from a petition for a protective order under  
28 AS 18.66.100 - 18.66.180.

29 (d) In addition to other required information contained in a protective order,  
30 the order must include in bold face type the following statements:

31 (1) "Violation of this order may be a misdemeanor, punishable by up

1 to one year of incarceration and up to a \$5,000 fine";

2 (2) "If you are ordered to have no contact with the petitioner or to stay  
3 away from the petitioner's residence, vehicle, or other place designated by the court,  
4 an invitation by the petitioner to have the prohibited contact or to be present at or enter  
5 the residence, vehicle, or other place does not in any way invalidate or nullify the  
6 order."

7 (e) A protective order issued under this chapter is in addition to and not in  
8 place of any other civil or criminal remedy. A petitioner is not barred from seeking  
9 an order under AS 18.66.100 - 18.66.180 because of the existence of another civil  
10 action between the petitioner and respondent.

11 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS  
12 ISSUED IN OTHER STATES. (a) A certified copy of an unexpired protective order  
13 issued in another jurisdiction may be filed with the clerk of court in any judicial  
14 district in this state.

15 (b) A protective order filed in accordance with (a) of this section has the same  
16 effect and must be enforced in the same manner as a protective order issued by a court  
17 of this state.

18 (c) When a protective order is filed with the court under this section, the court  
19 shall have the order delivered to the appropriate local law enforcement agency for  
20 entry into the central registry of protective orders under AS 18.65.540.

21 Sec. 18.66.150. FORMS FOR PETITIONS AND ORDERS; FEES. (a) The  
22 Alaska Court System, after consulting with the Council on Domestic Violence and  
23 Sexual Assault and other interested persons and organizations, shall prepare forms for  
24 petitions, protective orders, and instructions for their use by a person seeking a  
25 protective order under this chapter. The forms must conform to the Alaska Rules of  
26 Civil Procedure, except that information on the forms may be filled in by legible  
27 handwriting.

28 (b) In addition to other information required, a petition for a protective order  
29 must include a statement of pending civil actions or domestic violence criminal actions  
30 involving either the petitioner or the respondent. While a protective order is in effect  
31 or a petition for protective order is pending, both the petitioner and respondent have

1 a continuing duty to inform the court of pending civil actions or domestic violence  
2 criminal actions involving either the petitioner or the respondent.

3 (c) The office of the clerk of each superior and district court shall make  
4 available to the public under AS 18.66.100 - 18.66.180 the forms a person seeking a  
5 protective order under AS 18.66.100 - 18.66.180 may need and instructions for the use  
6 of the forms. The clerk shall provide assistance in completing the forms and filing the  
7 forms.

8 (d) Filing fees may not be charged in any action seeking only the relief  
9 provided in this chapter.

10 Sec. 18.66.160. SERVICE OF PROCESS. (a) Process issued under this  
11 chapter shall be promptly served and executed. If process is to be served upon a  
12 person believed to be present or residing in a municipality, as defined in AS 29.71.800,  
13 or in an unincorporated community, process shall be served by a peace officer of that  
14 municipality or unincorporated community who has jurisdiction within the area of  
15 service. If a peace officer of the municipality or unincorporated community who has  
16 jurisdiction is not available, a superior court, district court, or magistrate may designate  
17 any other peace officer to serve and execute process. A state peace officer shall serve  
18 process in any area that is not within the jurisdiction of a peace officer of a  
19 municipality or unincorporated community. A peace officer shall use every reasonable  
20 means to serve process issued under this chapter.

21 (b) Service of process under (a) of this section does not preclude a petitioner  
22 from using any other available means to serve process issued under this chapter.

23 (c) Fees for service of process may not be charged in a proceeding seeking  
24 only the relief provided in this chapter.

25 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.  
26 When a court issues or accepts for filing a protective order under this chapter, it shall  
27 send a copy of the order to the appropriate local law enforcement agency. Each law  
28 enforcement agency shall establish procedures to inform peace officers of protective  
29 orders. Peace officers shall use every reasonable means to enforce a protective order  
30 issued or filed under this chapter.

31 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for

1 damages against the state, its officers, agents, or employees, or a law enforcement  
2 agency, its officers, agents, or employees for any failure to comply with the provisions  
3 of this chapter.

4 ARTICLE 3. EDUCATION AND PREVENTION.

5 Sec. 18.66.300. STANDARDS AND PROCEDURES FOR HEALTH CARE  
6 IN DOMESTIC VIOLENCE CASES. (a) The Department of Health and Social  
7 Services shall adopt standards and procedures for the delivery of services to victims  
8 of domestic violence by health care facilities and practitioners of the healing arts and  
9 personnel in those facilities. The standards and procedures shall be formulated in  
10 consultation with the Council on Domestic Violence and Sexual Assault, the  
11 Department of Commerce and Economic Development, private agencies that provide  
12 services for victims of domestic violence, and persons with expertise in providing  
13 health care and other services to victims of domestic violence.

14 (b) The Department of Health and Social Services shall make available to  
15 health care facilities and practitioners of the healing arts and personnel in those  
16 facilities a written notice of the rights of victims of domestic violence and the services  
17 available to them. The notice shall be substantially similar to the notice provided in  
18 AS 18.65.520(a).

19 (c) The Department of Health and Social Services may adopt regulations to  
20 implement and interpret this section.

21 Sec. 18.66.310. CONTINUING EDUCATION FOR PUBLIC EMPLOYEES,  
22 COURT SYSTEM EMPLOYEES, AND FOR PROSECUTING AUTHORITIES. (a)  
23 Employers of state or local public employees, including employees of public schools,  
24 shall, in consultation with the Council on Domestic Violence and Sexual Assault,  
25 provide continuing education in domestic violence for the public employees who are  
26 required by law to report abuse or neglect of children under AS 47.17.020.

27 (b) The administrative director of the Alaska Court System shall, in  
28 consultation with the Council on Domestic Violence and Sexual Assault, provide  
29 continuing education in domestic violence for judicial officers and court clerks who  
30 have contact with parties involved in domestic violence.

31 (c) The Department of Law and other prosecuting authorities in the state shall,

1 in consultation with the Council on Domestic Violence and Sexual Assault, provide  
2 continuing education in domestic violence for prosecuting attorneys and other  
3 employees who have contact with persons involved in domestic violence.

4 (d) The continuing education required under (a) - (c) of this section must  
5 include information on the following subjects:

6 (1) the nature, extent, and causes of domestic violence;

7 (2) procedures designed to promote the safety of the victim and other  
8 household members;

9 (3) resources available to victims and perpetrators of domestic violence;

10 and

11 (4) the lethality of domestic violence.

#### 12 ARTICLE 4. GENERAL PROVISIONS.

13 Sec. 18.66.990. DEFINITIONS. In this chapter,

14 (1) "council" means the Council on Domestic Violence and Sexual  
15 Assault;

16 (2) "crisis intervention and prevention program" means a community  
17 program that provides information, education, counseling, and referral services to  
18 individuals experiencing personal crisis related to domestic violence or sexual assault  
19 and to individuals in personal or professional transition, excluding correctional half-  
20 way houses, outpatient mental health programs, and drug or alcohol rehabilitation  
21 programs;

22 (3) "domestic violence" and "crime involving domestic violence" mean  
23 one or more of the following offenses or a law or ordinance of another jurisdiction  
24 having elements similar to these offenses, or an attempt to commit the offense, by a  
25 household member against another household member:

26 (A) a crime against the person under AS 11.41;

27 (B) burglary under AS 11.46.300 - 11.46.310;

28 (C) criminal trespass under AS 11.46.320 - 11.46.330;

29 (D) arson or criminally negligent burning under AS 11.46.400 -  
30 11.46.430;

31 (E) criminal mischief under AS 11.46.480 - 11.46.486;

1 (F) terroristic threatening under AS 11.56.810;  
2 (G) violating a domestic violence order under AS 11.56.740; or  
3 (H) harassment under AS 11.61.120(a)(2) - (4);  
4 (4) "domestic violence program" means a program that provides  
5 services to the victims of domestic violence, their families, or perpetrators of domestic  
6 violence;  
7 (5) "household member" includes  
8 (A) adults or minors who are current or former spouses;  
9 (B) adults or minors who live together or who have lived  
10 together;  
11 (C) adults or minors who are dating or who have dated;  
12 (D) adults or minors who are engaged in or who have engaged  
13 in a sexual relationship;  
14 (E) adults or minors who are related to each other up to the  
15 fourth degree of consanguinity, whether of the whole or half blood or by  
16 adoption, computed under the rules of civil law;  
17 (F) adults or minors who are related or formerly related by  
18 marriage;  
19 (G) persons who have a child of the relationship; and  
20 (H) minor children of a person in a relationship that is described  
21 in (A) - (G) of this paragraph;  
22 (6) "local community entity" means a city or borough or other political  
23 subdivision of the state, a nonprofit organization, or a combination of these;  
24 (7) "judicial day" means any Monday through Friday that is not a state  
25 holiday and on which the court clerk's offices are officially opened to receive legal  
26 documents for filing;  
27 (8) "petitioner" includes a person on whose behalf an emergency  
28 protective order has been requested under AS 18.66.110(b);  
29 (9) "sexual assault" means a crime specified in AS 11.41.410 -  
30 11.41.450;  
31 (10) "sexual assault program" means a program that provides services

1 to the victims of sexual assault, their families, or perpetrators of sexual assault.

2 \* **Sec. 34.** AS 22.10.020(a) is amended to read:

3 (a) The superior court is the trial court of general jurisdiction, with original  
4 jurisdiction in all civil and criminal matters, including probate and guardianship of  
5 minors and incompetents. Except for a petition for **a protective order** [INJUNCTIVE  
6 RELIEF] under **AS 18.66.100 - 18.66.180** [AS 25.35.010 OR 25.35.020], an action that  
7 falls within the concurrent jurisdiction of the superior court and the district court may  
8 not be filed in the superior court, except as provided by rules of the supreme court.

9 \* **Sec. 35.** AS 22.15.030 is amended to read:

10 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has jurisdiction  
11 of civil cases, including foreign judgments filed under AS 09.30.200 and arbitration  
12 proceedings under AS 09.43.170, as follows:

13 (1) for the recovery of money or damages when the amount claimed  
14 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

15 (2) for the recovery of specific personal property, when the value of  
16 the property claimed and the damages for the detention do not exceed \$50,000;

17 (3) for the recovery of a penalty or forfeiture, whether given by statute  
18 or arising out of contract, not exceeding \$50,000;

19 (4) to give judgment without action upon the confession of the  
20 defendant for any of the cases specified in this section, except for a penalty or  
21 forfeiture imposed by statute;

22 (5) for establishing the fact of death of any person in the manner  
23 prescribed in AS 09.55.020 - 09.55.060;

24 (6) for the recovery of the possession of premises in the manner  
25 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage  
26 to the property does not exceed \$50,000;

27 (7) for the foreclosure of a lien when the amount in controversy does  
28 not exceed \$50,000;

29 (8) for the recovery of money or damages in motor vehicle tort cases  
30 when the amount claimed exclusive of costs, interest, and attorney fees does not  
31 exceed \$50,000;

1 (9) over civil actions for taking utility service and for damages to or  
2 interference with a utility line filed under AS 42.20.030;

3 (10) over cases involving **protective orders** [INJUNCTIVE RELIEF]  
4 for domestic violence under **AS 18.66.100 - 18.66.180** [AS 25.35.010 AND 25.35.020].

5 (b) Insofar as the civil jurisdiction of the district courts and the superior court  
6 is the same, the jurisdiction is concurrent. Except for a petition for **a protective order**  
7 [INJUNCTIVE RELIEF] under **AS 18.66.100 - 18.66.180** [AS 25.35.010 OR  
8 25.35.020], an action that falls within the concurrent jurisdiction of the superior court  
9 and the district court may not be filed in the superior court, except as provided by  
10 rules of the supreme court.

11 \* **Sec. 36.** AS 22.15.100 is amended to read:

12 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND  
13 MAGISTRATE. Each district judge and magistrate has the power

14 (1) to issue writs of habeas corpus for the purpose of inquiring into the  
15 cause of restraint of liberty, returnable before a judge of the superior court, and the  
16 same proceedings shall be had on the writ as if it had been granted by the superior  
17 court judge under the laws of the state in such cases;

18 (2) of a notary public;

19 (3) to issue marriage licenses and to solemnize marriages;

20 (4) to issue warrants of arrest, summons, and search warrants according  
21 to manner and procedure prescribed by law and the supreme court;

22 (5) to act as an examining judge or magistrate in preliminary  
23 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the  
24 release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to the judge or  
26 magistrate by the superior court, with all powers conferred upon referees by laws;

27 (7) of the superior court in all respects including but not limited to  
28 contempts, attendance of witnesses, and bench warrants;

29 (8) to order the temporary detention of a minor, or take other action  
30 authorized by law or rules of procedure, in cases arising under AS 47.10, when the  
31 minor is in a condition or surrounding dangerous or injurious to the welfare of the



1 minor or others that requires immediate action; the action may be continued in effect  
2 until reviewed by the superior court in accordance with rules of procedure governing  
3 these cases;

4 (9) to issue a protective order [TEMPORARY ORDER FOR  
5 INJUNCTIVE RELIEF] in cases involving domestic violence as provided in  
6 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020];

7 (10) to review an administrative revocation of a person's driver's  
8 license or nonresident privilege to drive, and an administrative refusal to issue an  
9 original license, when designated as a hearing officer by the commissioner of public  
10 safety and with the consent of the administrative director of the state court system.

11 \* **Sec. 37.** AS 22.20.110 is amended to read:

12 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF  
13 APPEALS, THE SUPERIOR COURT, AND DISTRICT COURTS. When required  
14 by the supreme court, and except as otherwise provided in AS 18.66.160  
15 [AS 25.35.040], the commissioner shall serve and execute all process issued by the  
16 court of appeals, the superior court, and the district courts; attend to and wait upon  
17 grand and petit juries; maintain order; attend the sessions of the courts; and exercise  
18 the power and perform the duties concerning all matters within the jurisdiction of the  
19 courts as may be assigned. The commissioner is the executive officer of the court of  
20 appeals, the superior court, and district courts.

21 \* **Sec. 38.** AS 25.20.060 is amended by adding a new subsection to read:

22 (d) If the court finds that a parent or child is a victim of domestic violence,  
23 the court may order that the address and telephone number of the parent or child be  
24 kept confidential in the proceedings.

25 \* **Sec. 39.** AS 25.20 is amended by adding a new section to read:

26 Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC  
27 VIOLENCE. If visitation is awarded to a parent who has committed a crime involving  
28 domestic violence, against the other parent or a child of the two parents, within the  
29 five years preceding the award of visitation, the court may set conditions for the  
30 visitation, including

31 (1) the transfer of the child for visitation must occur in a protected

1 setting;

2 (2) visitation shall be supervised by another person or agency and under  
3 specified conditions as ordered by the court;

4 (3) the perpetrator shall attend and complete, to the satisfaction of the  
5 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
6 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
7 counseling; the perpetrator shall be required to pay the costs of the program or other  
8 counseling;

9 (4) the perpetrator shall abstain from possession or consumption of  
10 alcohol or controlled substances during the visitation and for 24 hours before visitation;

11 (5) the perpetrator shall pay costs of supervised visitation as set by the  
12 court;

13 (6) the prohibition of overnight visitation;

14 (7) the perpetrator shall post a bond to the court for the return and  
15 safety of the child; and

16 (8) any other condition necessary for the safety of the child, the other  
17 parent, or other household member.

18 \* **Sec. 40.** AS 25.20.080(a) is amended to read:

19 (a) **Except as provided in (f) and (g) of this section, at** [AT] any time within  
20 30 days after a petition for child custody is filed under AS 25.20.060 the court may  
21 order the parties to submit to mediation. Each party **has** [SHALL HAVE] the right to  
22 challenge peremptorily one mediator appointed.

23 \* **Sec. 41.** AS 25.20.080 is amended by adding new subsections to read:

24 (f) The court may not order or refer parties to mediation in a proceeding  
25 concerning custody or visitation of a child if a protective order issued or filed under  
26 AS 18.66.100 - 18.66.180 is in effect. The court may not order or refer parties to  
27 mediation if a party objects on the grounds that domestic violence has occurred  
28 between the parties unless the court finds that the conditions of (g)(1) - (3) of this  
29 section are met. If the court proposes or suggests mediation under this subsection,

30 (1) mediation may not occur unless the victim of the alleged domestic  
31 violence agrees to the mediation; and

1 (2) the court shall advise the parties that each party has the right to not  
2 agree to mediation and that the decision of each party will not bias other decisions of  
3 the court.

4 (g) A mediator who receives a referral or order from a court to conduct  
5 mediation under (a) of this section shall evaluate whether domestic violence has  
6 occurred between the parties. A mediator may not engage in mediation when either  
7 party has committed a crime involving domestic violence unless

8 (1) mediation is requested by the victim of the alleged domestic  
9 violence, or proposed by the court and agreed to by the victim;

10 (2) mediation is provided by a mediator who is trained in domestic  
11 violence in a manner that protects the safety of the victim and any household member,  
12 taking into account the results of an assessment of the potential danger posed by the  
13 perpetrator and the risk of harm to the victim; and

14 (3) the victim is permitted to have in attendance a person of the  
15 victim's choice, including an attorney.

16 \* **Sec. 42.** AS 25.20.110 is amended by adding a new subsection to read:

17 (c) In a proceeding involving the modification of an award for custody of a  
18 child or visitation with a child, a finding that a crime involving domestic violence has  
19 occurred since the last custody or visitation determination is a finding of change of  
20 circumstances under (a) of this section.

21 \* **Sec. 43.** AS 25.24.060(a) is amended to read:

22 (a) **Except as provided in (f) and (g) of this section, at** [AT] any time within  
23 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the  
24 action may file a motion with the court requesting mediation, for the purpose of  
25 achieving a mutually agreeable settlement in termination of the marriage. When a  
26 party moves for settlement mediation, the other party shall answer the motion on the  
27 record, and the judge may order mediation. When no request for mediation is made,  
28 the court may at any time order the parties to submit to mediation if it determines that  
29 mediation may result in a more satisfactory settlement between the parties.

30 \* **Sec. 44.** AS 25.24.060 is amended by adding new subsections to read:

31 (f) The court may not order or refer parties to mediation in a divorce

1 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in  
2 effect. The court may not order or refer parties to mediation if a party objects on the  
3 grounds that domestic violence has occurred between the parties unless the court finds  
4 that the conditions of (g)(1) - (3) of this section are met. If the court proposes or  
5 suggests mediation under this subsection,

6 (1) mediation may not occur unless the victim of the alleged domestic  
7 violence agrees to the mediation; and

8 (2) the court shall advise the parties that each party has the right to not  
9 agree to mediation and that the decision of each party will not bias other decisions of  
10 the court.

11 (g) A mediator who receives a referral or order from a court to conduct  
12 mediation under (a) of this section shall evaluate whether domestic violence has  
13 occurred between the parties. A mediator may not engage in mediation when either  
14 party has committed a crime involving domestic violence unless

15 (1) mediation is requested by the victim of the alleged domestic  
16 violence, or proposed by the court and agreed to by the victim;

17 (2) mediation is provided by a mediator who is trained in domestic  
18 violence in a manner that protects the safety of the victim and any household member,  
19 taking into account the results of an assessment of the potential danger posed by the  
20 perpetrator and the risk of harm to the victim; and

21 (3) the victim is permitted to have in attendance a person of the  
22 victim's choice, including an attorney.

23 \* **Sec. 45.** AS 25.24.140(b) is amended to read:

24 (b) During the pendency of the action, upon application, a spouse is entitled  
25 to necessary protective orders, including orders

26 (1) providing for the freedom of each spouse from the control of the  
27 other spouse;

28 (2) **for protection under AS 18.66.100 - 18.66.180** [RESTRAINING  
29 EACH SPOUSE FROM SUBJECTING THE OTHER SPOUSE OR ANOTHER  
30 PERSON LIVING IN THE HOUSEHOLD TO DOMESTIC VIOLENCE,  
31 AS DEFINED IN AS 25.35.200];

1 (3) directing one spouse to vacate the marital residence or the home of  
2 the other spouse;

3 (4) restraining a spouse from communicating directly or indirectly with  
4 the other spouse;

5 (5) restraining a spouse from entering a propelled vehicle in the  
6 possession of or occupied by the other spouse; and

7 (6) prohibiting a spouse from disposing of the property of either spouse  
8 or marital property without the permission of the other spouse or a court order.

9 \* **Sec. 46.** AS 25.24.140(c) is amended to read:

10 (c) **Except as provided in (d) and (e) of this section, after** [AFTER] a  
11 hearing, if both parties agree, the court may also order that the parties engage in  
12 personal or family counseling or mediation. In the order, the court shall provide for  
13 the payment of the costs of the counseling or mediation.

14 \* **Sec. 47.** AS 25.24.140 is amended by adding new subsections to read:

15 (d) The court may not order or refer parties to mediation or family counseling  
16 under (c) of this section if a protective order issued or filed under AS 18.66.100 -  
17 18.66.180 is in effect. The court may not order or refer parties to mediation or family  
18 counseling if a party objects on the grounds that domestic violence has occurred  
19 between the parties unless the court finds that the conditions of (e)(1) - (3) of this  
20 section are met. If the court proposes or suggests mediation under this subsection,

21 (1) mediation may not occur unless the victim of the alleged domestic  
22 violence agrees to the mediation; and

23 (2) the court shall advise the parties that each party has the right to not  
24 agree to mediation and that the decision of each party will not bias other decisions by  
25 the court.

26 (e) A mediator or family counselor who receives a referral or order from a  
27 court to conduct mediation under (c) of this section shall evaluate whether domestic  
28 violence has occurred between the parties. A mediator or family counselor may not  
29 engage in mediation when either party has committed a crime involving domestic  
30 violence unless

31 (1) mediation or family counseling is requested by the victim of the

1 alleged domestic violence, or proposed by the court and agreed to by the victim;

2 (2) mediation or family counseling is provided by a mediator or family  
3 counselor who is trained in domestic violence in a manner that protects the safety of  
4 the victim and any household member, taking into account the results of an assessment  
5 of the potential danger posed by the perpetrator and the risk of harm to the victim; and

6 (3) the victim is permitted to have in attendance a person of the  
7 victim's choice, including an attorney.

8 \* **Sec. 48.** AS 25.24.210(e) is amended to read:

9 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition  
10 must state in detail the terms of the agreement between the spouses concerning the  
11 custody of children, child support, visitation, spousal maintenance and tax  
12 consequences, if any, and fair and just division of property, including retirement  
13 benefits. Agreements on spousal maintenance and property division must fairly  
14 allocate the economic effect of dissolution and take into consideration the factors listed  
15 in AS 25.24.160(a)(2) and (4). In addition, the petition must state

16 (1) the respective occupations of the petitioners;

17 (2) the income, assets, and liabilities of the respective petitioners at the  
18 time of filing the petition;

19 (3) the date and place of the marriage;

20 (4) the name, date of birth, and current marital, educational, and  
21 custodial status of each child born of the marriage or adopted by the petitioners who  
22 is under the age of 19;

23 (5) whether the wife is pregnant;

24 (6) whether either petitioner requires medical care or treatment;

25 (7) whether any of the following [A DOMESTIC VIOLENCE  
26 COMPLAINT] has been issued or filed during the marriage by or regarding either  
27 spouse as defendant, participant, or respondent:

28 (A) a criminal charge of a crime involving domestic  
29 violence;

30 (B) a protective order under AS 18.66.100 - 18.66.180;

31 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

1                   or  
2                                   **(D) a protective order issued in another jurisdiction and**  
3                   **filed with the court in this state under AS 18.66.140** [A MEMBER OF THE  
4                   HOUSEHOLD];

5                   (8) whether either petitioner has received the advice of legal counsel  
6                   regarding a divorce or dissolution;

7                   (9) other facts and circumstances that the petitioners believe should be  
8                   considered;

9                   (10) that the petition constitutes the entire agreement between the  
10                  petitioners; and

11                  (11) any other relief sought by the petitioners.

12       \* **Sec. 49.** AS 25.24.220(h) is amended to read:

13                  (h) In its examination of a petitioner under (d) of this section, the court shall  
14                  use a heightened level of scrutiny of agreements if

15                       (1) one party is represented by counsel and the other is not;

16                       (2) **there is evidence that a party committed a crime involving** [A]  
17                  domestic violence **during the marriage or if any of the following** [COMPLAINT]  
18                  has been **issued or** filed during the marriage by **or regarding either spouse as**  
19                  **defendant, participant, or respondent:**

20                               **(A) a criminal charge of a crime involving domestic**  
21                       **violence;**

22                               **(B) a protective order under AS 18.66.100 - 18.66.180;**

23                               **(C) injunctive relief under former AS 25.35.010 or 25.35.020;**

24                       or

25                               **(D) a protective order issued in another jurisdiction and**  
26                  **filed with the court in this state under AS 18.66.140** [A MEMBER OF THE  
27                  FAMILY OR THERE IS EVIDENCE OF DOMESTIC VIOLENCE DURING  
28                  THE MARRIAGE];

29                       (3) there is a minor child of the marriage; or

30                       (4) there is a patently inequitable division of the marital estate.

31       \* **Sec. 50.** AS 25 is amended by adding a new chapter to read:

1 CHAPTER 90. GENERAL PROVISIONS.

2 Sec. 25.90.010. DEFINITIONS. In this title, "domestic violence" and "crime  
3 involving domestic violence" have the meanings given in AS 18.66.990.

4 \* **Sec. 51.** AS 33.16.120 is amended by adding a new subsection to read:

5 (g) A victim of a crime involving domestic violence shall be informed by the  
6 board at least 30 days in advance of a scheduled hearing to review or consider  
7 discretionary parole for a prisoner. The board shall inform the victim of any decision  
8 to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c).  
9 If the prisoner is to be released, the victim shall be notified of the expected date of the  
10 release, the geographic area in which the prisoner will reside, and any other  
11 information concerning conditions of parole that may affect the victim. The victim  
12 shall also be informed of any changes in the conditions of parole that may affect the  
13 victim. The board shall send the notice required to the last known address of the  
14 victim. A person may not bring a civil action for damages for a failure to comply  
15 with the provisions of this subsection.

16 \* **Sec. 52.** AS 33.16.150 is amended by adding a new subsection to read:

17 (f) In addition to other conditions of parole imposed under this section, the  
18 board may impose as a condition of special medical, discretionary, or mandatory parole  
19 for a prisoner serving a term for a crime involving domestic violence (1) any of the  
20 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at  
21 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of  
22 the board, a program for the rehabilitation of perpetrators of domestic violence that  
23 meets the standards set by the department under AS 44.28.020(b); and (3) any other  
24 condition necessary to rehabilitate the prisoner. The board shall establish procedures  
25 for the exchange of information concerning the parolee with the victim and for  
26 responding to reports of nonattendance or noncompliance by the parolee with  
27 conditions imposed under this subsection.

28 \* **Sec. 53.** AS 33.16.220(a) is amended to read:

29 (a) The board may revoke parole if the parolee  
30 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or  
31 (f); or



(2) has violated an order of the court to participate in or comply with the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

\* **Sec. 54.** AS 33.16.220(c) is amended to read:

(c) In determining whether a parole violator should be released pending a final revocation hearing, the board or its designee shall consider

(1) the likelihood of the parolee's appearance at a final revocation hearing;

(2) the seriousness of the alleged violation;

(3) whether the parolee presents a danger to the community; [AND]

(4) whether the parolee is likely to further violate conditions of parole;

**and**

**(5) whether the parolee is on parole for a crime involving domestic violence; if the violation of the condition of parole involved an act of domestic violence, the parolee may not be released pending the final revocation hearing.**

\* **Sec. 55.** AS 33.16.900 is amended by adding a new paragraph to read:

(13) "crime involving domestic violence" and "domestic violence" have the meanings given in AS 18.66.990.

\* **Sec. 56.** AS 33.20.080(b) is amended to read:

(b) If requested by the victim of a crime against a person, **a crime involving domestic violence**, or arson in the first degree, the board shall send notice of an application for executive clemency submitted by the state prisoner who was convicted of that crime. The victim may comment in writing to the board on the application for executive clemency.

\* **Sec. 57.** AS 33.20.080(d) is amended by adding a new paragraph to read:

(3) "crime involving domestic violence" has the meaning given in AS 18.66.990.

\* **Sec. 58.** AS 33.30.013(b) is amended to read:

(b) The commissioner is required to give notice of a change in the status of an offender under this section only if the victim has requested notice of the change, **except that the commissioner is required to give notice, mailed to the last known address of the victim, in every case of a crime involving domestic violence.**

1     \* **Sec. 59.** AS 33.30.101 is amended by adding a new subsection to read:

2             (c) The commissioner may release on furlough a prisoner convicted of a crime  
3             involving domestic violence only under conditions that would protect the victim of  
4             domestic violence or other household member.

5     \* **Sec. 60.** AS 33.30.111(f) is amended to read:

6             (f) **Except as provided in (g) of this section, if** [IF] the commissioner  
7             considers a prisoner convicted of a crime against a person or arson in the first degree  
8             for a prerelease furlough and the victim has requested notice under AS 33.30.013, the  
9             commissioner shall send notice of intent to consider the prisoner for a prerelease  
10            furlough to the victim. The victim may comment in writing on the commissioner's  
11            intent to release the prisoner on a prerelease furlough status. The commissioner shall  
12            consider the victim's comments before making a final decision to release a prisoner  
13            on a prerelease furlough status. The commissioner shall make a reasonable effort to  
14            notify the victim of an intent to release the prisoner on a prerelease furlough. The  
15            notice must contain the expected date of the prisoner's release, the geographic area in  
16            which the prisoner will reside, and other pertinent information concerning the  
17            prisoner's release that may affect the victim.

18    \* **Sec. 61.** AS 33.30.111 is amended by adding a new subsection to read:

19            (g) If the commissioner considers a prisoner convicted of a crime involving  
20            domestic violence for a prerelease furlough, the commissioner shall send notice of  
21            intent to consider the prisoner for prerelease furlough to the last known address of the  
22            victim. The victim may comment in writing on the commissioner's intention to release  
23            the prisoner on a prerelease furlough. The commissioner shall consider the victim's  
24            comments, if any, before making a final decision to release the prisoner on a prerelease  
25            furlough. The commissioner shall make a reasonable effort to notify the victim of any  
26            decision to release the prisoner on the prerelease furlough. The notice must include  
27            the expected date of the furlough and any other information concerning the furlough  
28            that may affect the victim. A person may not bring a civil action for damages for a  
29            failure to comply with the provisions of this subsection.

30    \* **Sec. 62.** AS 33.30.901 is amended by adding a new paragraph to read:

31            (15) "crime involving domestic violence" has the meaning given in

AS 18.66.990.

\* **Sec. 63.** AS 43.23.065(b) is amended to read:

(b) An exemption is not available under this section for permanent fund dividends taken to satisfy

(1) child support obligations required by court order or decision of the child support enforcement agency under AS 25.27.140 - 25.27.220;

(2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100, or AS 47.10.080(b)(4);

(3) claims on defaulted scholarship loans under AS 43.23.067;

(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages;

(B) under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

**(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).**

\* **Sec. 64.** AS 44.21.410(a)(5) is amended to read:

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); **in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor;** and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

1     \* **Sec. 65.** AS 44.28.020 is amended by adding a new subsection to read:

2             (b) The department shall, with the approval of the Council on Domestic  
3     Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation  
4     programs for perpetrators of domestic violence as defined in AS 18.66.990. For  
5     purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall  
6     determine whether a program meets the standards.

7     \* **Sec. 66.** AS 47.17.020(a) is amended to read:

8             (a) The following persons who, in the performance of their occupational duties,  
9     have reasonable cause to suspect that a child has suffered harm as a result of child  
10    abuse or neglect shall immediately report the harm to the nearest office of the  
11    department:

- 12                     (1) practitioners of the healing arts;  
13                     (2) school teachers and school administrative staff members of public  
14    and private schools;  
15                     (3) social workers;  
16                     (4) peace officers, and officers of the Department of Corrections;  
17                     (5) administrative officers of institutions;  
18                     (6) child care providers;  
19                     (7) paid employees of domestic violence and sexual assault programs,  
20    and crisis intervention and prevention programs as defined in AS 18.66.990  
21    [AS 18.66.900];  
22                     (8) paid employees of an organization that provides counseling or  
23    treatment to individuals seeking to control their use of drugs or alcohol.

24    \* **Sec. 67.** AS 47.17 is amended by adding a new section to read:

25             Sec. 47.17.035. DUTIES OF DEPARTMENT IN DOMESTIC VIOLENCE  
26    CASES. (a) In consultation with the Council on Domestic Violence and Sexual  
27    Assault, the department shall develop written procedures for screening reports of harm  
28    for abuse and neglect of a child to assess whether there is domestic violence occurring  
29    within the family. The procedures must include the following factors:

- 30                     (1) inquiry concerning the criminal records of the parents or of the  
31    alleged abusive or neglectful person or the alleged perpetrator if not the parent of the

1 child; and

2 (2) inquiry concerning the existence of protective orders issued or filed  
3 under AS 18.66.100 - 18.66.180 involving either parent as a petitioner or respondent.

4 (b) If the department determines in an investigation of abuse or neglect of a  
5 child that

6 (1) the child is in danger because of domestic violence or that the child  
7 needs protection as a result of the presence of domestic violence in the family, the  
8 department shall take appropriate steps for the protection of the child;

9 (2) a person is the victim of domestic violence, the department shall  
10 provide the victim with a written notice of the rights of and services available to  
11 victims of domestic violence that is substantially similar to the notice provided to  
12 victims of domestic violence under AS 18.65.520.

13 (c) For purposes of obtaining access to information needed to conduct the  
14 inquiries required by (a)(1) and (2) of this section, the department is a criminal justice  
15 agency conducting a criminal justice activity.

16 (d) A person may not bring a civil action for damages for a failure to comply  
17 with the provisions of this section.

18 (e) In this section,

19 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

20 (2) "criminal justice agency" has the meaning given in AS 12.62.900;

21 (3) "domestic violence" has the meaning given in AS 18.66.990.

22 \* **Sec. 68.** Rule 3, Alaska Rules of Civil Procedure, is amended by adding a new  
23 subsection to read:

24 (h) A petition or request for a protective order on domestic violence under  
25 AS 18.66 may be filed in the judicial district

26 (1) where the petitioner currently or temporarily resides;

27 (2) where the respondent resides; or

28 (3) where the domestic violence occurred.

29 \* **Sec. 69.** Rule 100(a), Alaska Rules of Civil Procedure, is amended to read:

30 (a) Application. At any time after a complaint is filed, a party may file a  
31 motion with the court requesting mediation for the purpose of achieving a mutually

1 agreeable settlement. The motion must address how the mediation should be  
2 conducted as specified in paragraph (b), including the names of any acceptable  
3 mediators. **If domestic violence has occurred between the parties and mediation**  
4 **is requested in a matter covered by AS 25, mediation may only be ordered when**  
5 **permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered**  
6 **by AS 25, the** [THE] court may order mediation in response to such a motion, or on  
7 its own motion, whenever it determines that mediation may result in an equitable  
8 settlement. In making this determination, the court **shall** [MAY] consider whether  
9 there is a history of domestic violence between the parties which could be expected  
10 to affect the fairness of the mediation process or the physical safety of the domestic  
11 violence victim. Mediation may not be ordered **between the parties to, or in, a case**  
12 **filed under AS 18.66.100 - 18.66.180** [AS 25.35.010 OR .020 AND CONDUCT  
13 WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES  
14 MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].

15 \* **Sec. 70.** Rule 505(a)(2), Alaska Rules of Evidence, is amended to read:

16 (2) Exceptions. There is no privilege under this subdivision:

17 (A) In a civil proceeding brought by or on behalf of one spouse  
18 against the other spouse; or

19 (B) In a proceeding to commit or otherwise place his spouse,  
20 the property of his spouse, or both the spouse and the property of the spouse  
21 under the control of another because of the alleged mental or physical condition  
22 of the spouse; or

23 (C) In a proceeding brought by or on behalf of a spouse to  
24 establish his competence; or

25 (D) In a proceeding in which one spouse is charged with:

26 (i) A crime against the person or the property of the  
27 other spouse or of a child of either, whether such crime was committed  
28 before or during marriage.

29 (ii) Bigamy, incest, adultery, pimping, or prostitution.

30 (iii) A crime related to abandonment of a child or  
31 nonsupport of a spouse or child.

(iv) A crime prior to the marriage.

**(v) A crime involving domestic violence as defined in**

**AS 18.66.990.**

(E) In a proceeding involving custody of a child.

(F) Evidence derived from or related to a business relationship  
involving the spouses.

\* **Sec. 71.** AS 11.56.740(a)(2) is repealed.

\* **Sec. 72.** AS 12.25.030(d); AS 12.61.900(1); AS 18.65.520(c); AS 18.66.900;  
AS 25.35.010, 25.35.020, 25.35.030, 25.35.040, 25.35.050, and 25.35.200 are repealed.

\* **Sec. 73.** REVISOR'S CHANGES. The revisor of statutes is requested to remove  
AS 25.35.100 - 25.35.150 from AS 25 and place these provisions in AS 18, renumbered as  
AS 18.66.200 - 18.66.250, and as a whole described as "Article 3. Confidential  
Communications." The revisor is also requested to revise all statutory cross-references to  
these statutes.

\* **Sec. 74.** TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.  
A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on  
the effective date of sec. 72 of this Act remains in effect until it expires under the terms of  
the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs  
earlier.

\* **Sec. 75.** TRANSITION: REGULATIONS. Notwithstanding secs. 81, 83, and 84 of this  
Act, the state agencies affected by this Act may proceed to adopt regulations necessary to  
implement changes affecting the state agency that are enacted by this Act. The regulations  
take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date  
of the changes in law in this Act.

\* **Sec. 76.** AS 18.66.150(d) and 18.66.160(c), added by sec. 33 of this Act, have the effect  
of amending Rules 9(b)(11), 9(c)(3), and 9(e)(6), Alaska Rules of Administration, by  
eliminating filing fees and service of process fees in domestic violence actions for protective  
orders.

\* **Sec. 77.** AS 18.66.160, added by sec. 33 of this Act, has the effect of amending Rule 4,  
Alaska Rules of Civil Procedure, relating to service of process in domestic violence actions  
for protective orders.

1     \* **Sec. 78.** AS 18.66.110 - 18.66.130, added by sec. 33 of this Act, have the effect of  
2 amending Rule 65(b) - (d), Alaska Rules of Civil Procedure, relating to temporary restraining  
3 orders, the method of obtaining those orders, and the timing of those orders.

4     \* **Sec. 79.** AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule  
5 613, Alaska Rules of Evidence, relating to impeachment of witnesses.

6     \* **Sec. 80.** Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76  
7 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
8 Constitution of the State of Alaska.

9     \* **Sec. 81.** If secs. 68 - 70 and 76 - 79 of this Act take effect under sec. 80 of this Act,  
10 they take effect July 1, 1996.

11     \* **Sec. 82.** Section 75 of this Act takes effect immediately under AS 01.10.070(c).

12     \* **Sec. 83.** Except as provided in secs. 81, 82, and 84 of this Act, this Act takes effect  
13 July 1, 1996.

14     \* **Sec. 84.** Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of  
15 this Act.