

CS FOR SENATE BILL NO. 49(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 4/14/25

Referred: Labor and Commerce

Sponsor(s): SENATOR CLAMAN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to workplace violence protective orders; relating to attorney fees;**
2 **relating to the crime of violating a protective order; relating to the powers of district**
3 **judges and magistrates; amending Rules 4 and 65, Alaska Rules of Civil Procedure, and**
4 **Rule 9, Alaska Rules of Administration; and providing for an effective date."**

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

6 *** Section 1.** AS 11.56.740(a) is amended to read:

7 (a) A person commits the crime of violating a protective order if the person is
8 subject to a protective order

9 (1) issued, filed, or recognized under AS 18.66 and containing a
10 provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to
11 commit an act with reckless disregard that the act violates or would violate a provision
12 of the protective order;

13 (2) issued or recognized under AS 18.65.850, 18.65.855, 18.65.860, or
14 18.65.867 and knowingly commits or attempts to commit an act that violates or would

1 violate a provision listed in AS 18.65.850(c)(1) - (3); [OR]

2 (3) issued under AS 13.26.450 - 13.26.460 and knowingly commits or
3 attempts to commit an act with reckless disregard that the act violates or would violate
4 a provision of the protective order; or

5 (4) issued under AS 18.65.875 - 18.65.899 and knowingly commits
6 or attempts to commit an act that violates or would violate a provision listed in
7 AS 18.65.875(c).

8 * **Sec. 2.** AS 11.56.740(c) is amended to read:

9 (c) In this section, "protective order" means an order issued, filed, or
10 recognized under AS 13.26.450 - 13.26.460, AS 18.65.850 - 18.65.899 [AS 18.65.850
11 - 18.65.870], or AS 18.66.100 - 18.66.180.

12 * **Sec. 3.** AS 13.26.460 is amended by adding a new subsection to read:

13 (i) Attorney fees may not be awarded against a petitioner or protected person
14 seeking a protective order under AS 13.26.450, making an application under
15 AS 13.26.455, or requesting modification of a protective order under (a) of this
16 section.

17 * **Sec. 4.** AS 18.65.530(a) is amended to read:

18 (a) Except as provided in (b) or (c) of this section, a peace officer, with or
19 without a warrant, shall arrest a person if the officer has probable cause to believe the
20 person has, either in or outside the presence of the officer, within the previous 12
21 hours,

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

24 (2) committed the crime of violating a protective order in violation of
25 AS 11.56.740(a)(1), [OR] (2), or (4);

26 (3) violated a condition of release imposed under AS 12.30.016(e) or
27 (f) or 12.30.027.

28 * **Sec. 5.** AS 18.65.540(a) is amended to read:

29 (a) The Department of Public Safety shall maintain a central registry of
30 protective orders issued by or filed with a court of this state under AS 13.26.450 -
31 13.26.460, AS 18.65.850 - 18.65.899 [AS 18.65.850 - 18.65.870], or AS 18.66.100 -

1 18.66.180. The registry must include, for each protective order, the names of the
 2 petitioner and respondent, their dates of birth, and the conditions and duration of the
 3 order. The registry shall retain a record of the protective order after it has expired.

4 * **Sec. 6.** AS 18.65.540(b) is amended to read:

5 (b) A peace officer receiving a protective order from a court under
 6 AS 13.26.450, 13.26.455, AS 18.65.850 - 18.65.855, 18.65.875, 18.65.877, or
 7 AS 18.66.100 - 18.66.180, a modified order issued under AS 13.26.460,
 8 AS 18.65.860, 18.65.880, or AS 18.66.120, or an order dismissing a protective order
 9 shall take reasonable steps to ensure that the order, modified order, or dismissal is
 10 entered into the central registry within 24 hours after being received.

11 * **Sec. 7.** AS 18.65.865 is amended by adding a new subsection to read:

12 (e) Attorney fees may not be awarded against a petitioner seeking a protective
 13 order under AS 18.65.850 - 18.65.870.

14 * **Sec. 8.** AS 18.65 is amended by adding new sections to read:

15 **Article 12A. Workplace Violence Protective Orders.**

16 **Sec. 18.65.875. Protective orders; eligible petitioners; relief.** (a) An
 17 employer may file a petition in the district or superior court for a protective order
 18 against an individual who the employer reasonably believes

19 (1) committed an act of violence against the employer or an employee
 20 that occurred at the employer's workplace; or

21 (2) made a threat of violence against the employer or an employee that
 22 can reasonably be construed as a threat that may be carried out at the employer's
 23 workplace.

24 (b) When a petition for a protective order is filed, the court shall schedule a
 25 hearing and provide at least 10 days' notice to the respondent of the hearing and of the
 26 respondent's right to appear and be heard, either in person or through an attorney. If
 27 the court finds by a preponderance of evidence that the respondent has committed
 28 violence or made a threat of violence, regardless of whether the respondent appears at
 29 the hearing, the court may order any relief available under (c) of this section. The
 30 provisions of a protective order issued under this section are effective for six months
 31 unless earlier dissolved by the court.

1 (c) A protective order issued under this section may

2 (1) prohibit the respondent from making a threat to commit or
3 committing violence;

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

6 (3) direct the respondent to stay away from the workplace of the
7 petitioner, or space adjacent to the workplace of the petitioner, or any specified place
8 frequented by the petitioner, during the normal course of the petitioner's business;
9 however, the court may order the respondent to stay away from the respondent's own
10 workplace only if the respondent has been provided actual notice of the opportunity to
11 appear and be heard on the petition;

12 (4) order other relief the court determines to be necessary to protect the
13 workplace of the petitioner.

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

15 (1) make reasonable efforts to ensure that the order is understood by
16 the petitioner and the respondent; and

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

20 (e) A court may not deny a petition for a protective order solely because of a
21 lapse of time between an act of violence or a threat of violence and the filing of the
22 petition.

23 **Sec. 18.65.877. Ex parte protective orders for workplace violence.** An
24 employer who may file a petition for a protective order against an individual under
25 AS 18.65.875 may file a petition for an ex parte protective order against the
26 individual. If the court finds that the petition establishes probable cause that recent
27 violence has occurred or a recent threat of violence has been made, that it is necessary
28 to protect the employer from further violence, and that the petitioner has certified to
29 the court in writing the efforts, if any, that have been made to provide notice to the
30 respondent, the court shall ex parte and without notice to the respondent issue a
31 protective order. An ex parte protective order under this section may grant the

1 protection allowed by AS 18.65.875(c). An ex parte protective order expires 20 days
 2 after it is issued unless dissolved earlier by the court at the request of either the
 3 petitioner or the respondent after notice and, if requested, a hearing. If the court issues
 4 an ex parte protective order, the court shall have the order delivered to the appropriate
 5 law enforcement agency for expedited service and entry into the central registry of
 6 protective orders under AS 18.65.540.

7 **Sec. 18.65.880. Modification of workplace violence protective order. (a)**

8 Either the petitioner or the respondent may request modification of a protective order
 9 issued under AS 18.65.875 or 18.65.877. If a request is made for modification of

10 (1) a protective order after notice and hearing under AS 18.65.875, the
 11 court shall schedule a hearing within 20 days after the date the request is made, except
 12 that if the court finds that the request is meritless on its face, the court may deny the
 13 request without further hearing; or

14 (2) an ex parte protective order under AS 18.65.877, the court shall
 15 schedule a hearing on three days' notice or on shorter notice as the court may
 16 prescribe.

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

20 (c) If the court modifies a protective order under this section, the court shall
 21 issue a modified order and shall

22 (1) make reasonable efforts to ensure that the order is understood by
 23 the petitioner and the respondent; and

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

27 **Sec. 18.65.885. Specific protective orders. (a)** If a respondent in a protective

28 order issued under AS 18.65.875 - 18.65.880 is prohibited from communicating with
 29 the petitioner, excluded from the petitioner's workplace or space adjacent to the
 30 petitioner's workplace, or ordered to stay away from the petitioner as provided in
 31 AS 18.65.875(c)(2) - (4), an invitation by the petitioner to communicate, enter the

petitioner's workplace, or have other prohibited contact with the petitioner does not waive or nullify any provision in a protective order.

(b) A court may not order parties into mediation or refer them to mediation for resolution of the issues arising from a petition for a protective order under AS 18.65.875 - 18.65.899.

(c) In addition to other required information contained in a protective order, the order must include in boldface type the following statements:

(1) "Violation of this order may be a misdemeanor, punishable by up to one year of incarceration and up to a \$25,000 fine";

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

(d) A protective order issued under AS 18.65.875 - 18.65.899 is in addition to and not in place of any other civil or criminal remedy. A petitioner is not barred from seeking an order under AS 18.65.875 - 18.65.899 because of the existence of another civil action between the petitioner and the respondent.

Sec. 18.65.890. Forms for petitions and orders; fees. (a) The Alaska Court System shall prepare forms for petitions, protective orders, and instructions for their use by an employer seeking a protective order under AS 18.65.875 - 18.65.899. The forms must conform to the Alaska Rules of Civil Procedure, except that information on the forms may be filled in by legible handwriting.

(b) In addition to other information required, a petition for a protective order must include a statement of pending civil or criminal actions involving the petitioner or the respondent. While a protective order is in effect or a petition for a protective order is pending, both the petitioner and the respondent have a continuing duty to inform the court of pending civil or criminal actions involving the petitioner or the respondent.

(c) The office of the clerk of each superior and district court shall make available to the public the forms a person seeking a protective order under AS 18.65.875 - 18.65.899 may need and instructions for the use of the forms. The

1 clerk shall provide assistance in completing the forms and filing the forms.

2 (d) Filing fees may not be charged in any action seeking only the relief
3 provided in AS 18.65.875 - 18.65.899.

4 (e) Attorney fees may not be awarded against a petitioner seeking a protective
5 order under AS 18.65.875 - 18.65.899.

6 **Sec. 18.65.895. Service of process.** (a) Unless, on the record in court, the
7 respondent has already been provided a copy of the court's order, process issued under
8 AS 18.65.875 - 18.65.899 shall be promptly served and executed. If process is to be
9 served on a respondent believed to be present or residing in a municipality, as defined
10 in AS 29.71.800, or in an unincorporated community, process shall be served by a
11 peace officer of that municipality or unincorporated community who has jurisdiction
12 within the area of service. If a peace officer of the municipality or unincorporated
13 community who has jurisdiction is not available, a superior court, district court, or
14 magistrate may designate any other peace officer to serve and execute process. A state
15 peace officer shall serve process in any area that is not within the jurisdiction of a
16 peace officer of a municipality or unincorporated community. A peace officer shall
17 use every reasonable means to serve process issued under AS 18.65.875 - 18.65.899.
18 A judge may not order a peace officer to serve a petition that has been denied by the
19 court.

20 (b) Service of process under (a) of this section does not preclude a petitioner
21 from using any other available means to serve process issued under AS 18.65.875 -
22 18.65.899.

23 (c) Fees for service of process may not be charged in a proceeding seeking
24 only the relief provided in AS 18.65.875 - 18.65.899.

25 **Sec. 18.65.897. Civil liability.** (a) A person may not bring a civil action for
26 damages against the state, its officers, agents, or employees, or a law enforcement
27 agency, its officers, agents, or employees for any failure to comply with the provisions
28 of AS 18.65.875 - 18.65.899.

29 (b) A person may not bring a civil action for damages against an employer for
30 seeking or failing to seek a protective order unless an employer seeks a protective
31 order for an illegitimate purpose.

1 **Sec. 18.65.899. Definitions.** In AS 18.65.875 - 18.65.899,

2 (1) "course of conduct" has the meaning given in AS 11.41.270(b);

3 (2) "employee" means an individual employed by an employer but
4 does not include an individual employed in the domestic service of any person;

5 (3) "employer" means a person who employs one or more other
6 persons;

7 (4) "threat of violence" means a statement or course of conduct that
8 recklessly places a person in fear of physical injury or death;

9 (5) "violence" means a crime under AS 11.41 that injures a person or
10 places a person in fear of physical injury or death;

11 (6) "workplace" means a place of employment other than a place used
12 primarily as a residence.

13 * **Sec. 9.** AS 18.66.150 is amended by adding a new subsection to read:

14 (e) Attorney fees may not be awarded against a petitioner seeking a protective
15 order under AS 18.66.100 - 18.66.180.

16 * **Sec. 10.** AS 22.15.100 is amended to read:

17 **Sec. 22.15.100. Functions and powers of district judge and magistrate.**

18 Each district judge and magistrate has the power

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

23 (2) of a notary public;

24 (3) to solemnize marriages;

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

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

30 (6) to act as a referee in matters and actions referred to the judge or
31 magistrate by the superior court, with all powers conferred on [UPON] referees by

1 laws;

2 (7) of the superior court in all respects including contempts, attendance
3 of witnesses, and bench warrants;

4 (8) to order the temporary detention of a minor, or take other action
5 authorized by law or rules of procedure, in cases arising under AS 47.10 or AS 47.12,
6 when the minor is in a condition or surrounding dangerous or injurious to the welfare
7 of the minor or others that requires immediate action; the action may be continued in
8 effect until reviewed by the superior court in accordance with rules of procedure
9 governing these cases;

10 (9) to issue a protective order in cases involving

11 (A) domestic violence as provided in AS 18.66.100 -
12 18.66.180; [OR]

13 (B) stalking or sexual assault as provided in AS 18.65.850 -
14 18.65.870; or

15 (C) workplace violence as provided in AS 18.65.875 -
16 18.65.899;

17 (10) to review an administrative revocation of a person's driver's
18 license or nonresident privilege to drive, and an administrative refusal to issue an
19 original license, when designated as a hearing officer by the commissioner of
20 administration and with the consent of the administrative director of the Alaska Court
21 System;

22 (11) to establish the fact of death or inquire into the death of a person
23 in the manner prescribed under AS 09.55.020 - 09.55.069;

24 (12) to issue an ex parte testing, examination, or screening order
25 according to the manner and procedure prescribed by AS 18.15.375.

26 * **Sec. 11.** The uncoded law of the State of Alaska is amended by adding a new section to
27 read:

28 **INDIRECT COURT RULE AMENDMENTS.** (a) AS 18.65.895, added by sec. 8 of
29 this Act, has the effect of amending Rule 4, Alaska Rules of Civil Procedure, and Rule 9,
30 Alaska Rules of Administration, relating to fees and service of process for a workplace
31 violence protective order.

1 (b) AS 18.65.875 - 18.65.899, added by sec. 8 of this Act, have the effect of
2 amending Rule 65, Alaska Rules of Civil Procedure, by changing the method for obtaining
3 and the timing of temporary restraining orders.

4 * **Sec. 12.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 CONDITIONAL EFFECT. This Act takes effect only if sec. 11 of this Act receives
7 the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the
8 State of Alaska.

9 * **Sec. 13.** If this Act takes effect under sec. 12 of this Act, it takes effect January 1, 2026.