

SENATE CS FOR CS FOR HOUSE BILL NO. 314(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/22/96
Referred: Finance

Sponsor(s): REPRESENTATIVES PARNELL, Robinson, Bunde, Elton, Toohey, Ivan, Nicholia

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

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

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

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

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

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

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

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

15 (a) A person commits the crime of violating a

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

19 (2) domestic violence restraining order if [(1)] the person knowingly
20 violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or
21 25.35.020

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

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

26 * **Sec. 6.** AS 11.56.740 is amended by adding new subsections to read:

27 (c) It is not a defense to a prosecution under (a) of this section that the person
28 who obtained the order initiated the contact or invited the defendant into the residence
29 of that person, regardless of ownership of the residence, or into a propelled vehicle in
30 the possession of or occupied by that person.

31 (d) In this section, "protective order" means an order issued or filed under

1 AS 18.66.100 - 18.66.180.

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

3 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining
4 unlawfully on premises or in a propelled vehicle in violation of a provision of an order
5 issued **or filed** under **AS 18.66.100 - 18.66.180 or issued under former**
6 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a
7 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

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

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

10 (1) shall make an arrest under the circumstances described in
11 AS 18.65.530;

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

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

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

19 (C) violated a condition of release imposed under AS 12.30.025
20 or 12.30.027;

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

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

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

26 or

27 (ii) AS 11.41.270;

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

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

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

4 (a) When a person is stopped or contacted by a peace officer for the
5 commission of a misdemeanor or the violation of a municipal ordinance, the person
6 may, in the discretion of the contacting peace officer, be issued a citation instead of
7 being taken before a judge or magistrate under AS 12.25.150, unless

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

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

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

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

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

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

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

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

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

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

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

30 (b) As used in this section,

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

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

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

3 Sec. 12.30.027. **RELEASE IN DOMESTIC VIOLENCE CASES.** (a) Before
4 ordering release before or after trial, or pending appeal, of a person charged with or
5 convicted of a crime involving domestic violence, the court shall consider the safety
6 of the alleged victim or other household member. To protect the alleged victim,
7 household member, and the public and to reasonably assure the person's appearance,
8 the court may impose bail and any of the conditions authorized under AS 12.30.020,
9 any of the provisions of AS 18.66.100(c)(1) - (7) and (11), and any other condition
10 necessary to protect the alleged victim, household member, and the public, and to
11 ensure the appearance of the person in court, including ordering the person to refrain
12 from the consumption of alcohol.

13 (b) A court may not order or permit a person released under (a) of this section
14 to return to the residence of the alleged victim or the residence of a petitioner who has
15 a protective order directed to the person and issued or filed under AS 18.66.100 -
16 18.66.180.

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

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

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

30 (e) A person arrested for a crime involving domestic violence may not be
31 released from custody until the person has appeared in person before a judicial officer

1 or telephonically for arraignment.

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

4 (g) In this section, "crime involving domestic violence" has the meaning given
5 in AS 18.66.990.

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

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

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

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

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

24 (2) require the defendant to refrain from the consumption of alcohol;
25 and

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

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

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

2 (c) A defendant convicted of assault in the fourth degree committed in
3 violation of the provisions of an order issued **or filed** under **AS 18.66.100 - 18.66.180**
4 **or issued under former** AS 25.35.010 or 25.35.020 shall be sentenced to a minimum
5 term of imprisonment of 20 days.

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

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

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

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

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

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

15 (A) of the defendant's conviction and the crimes of which the
16 defendant was convicted;

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

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

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

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

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

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

30 (b) If the defendant is proceeding without counsel in a case involving a
31 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, **11.56.810,**

1 AS 11.61.190 - 11.61.210, or a crime involving domestic violence, [AS 11.56.810,
2 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a
3 continuing threat to the victim of or witness to the offense charged, the court shall
4 protect the address and telephone number of the victim or witness by providing the
5 information only to a person specified by the court or by imposing other restrictions
6 that the court considers necessary. When an address or telephone number is released
7 to a person specified by the court under this subsection, that person, who shall be
8 ordered not to disclose the information to the defendant, shall contact the victim or
9 witness on behalf of the defendant, and the defendant shall meet or speak with the
10 victim or witness only in the presence of that person.

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

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

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

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

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

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

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

1 to the recording has been given.

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

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

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

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

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

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

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

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

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

31 (c) If an attorney, or a person acting on behalf of the defendant for an attorney,
32 violates this section, the court shall refer the violation to the Disciplinary Board of the

1 Alaska Bar Association as a grievance.

2 (d) In this section,

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

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

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

10 (1) the statement is reliable;

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

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

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

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

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

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

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

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

28 (A) AS 11.41.410 - 11.41.470;

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

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

31 (D) AS 11.66.100 - 11.66.130; or

32 (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -

1 11.40.420, if committed before January 1, 1980;

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

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

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

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

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

15 (b) The council shall

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

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

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

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

28 * **Sec. 26.** AS 18.65.510 is amended to read:

29 Sec. 18.65.510. DOMESTIC VIOLENCE TRAINING. (a) Each established
30 police training program in the state shall provide training that acquaints police officers
31 with

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

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

5 (3) **the investigation and management of cases involving domestic**
6 **violence and report writing for those cases;**

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

9 (5) [(4)] procedures applicable in the prosecution of cases involving
10 domestic violence;

11 (6) [(5)] orders that may be issued by **or filed with** a court under
12 **AS 18.66.100 - 18.66.180** [AS 25.35.010 AND 25.35.020]; [AND]

13 (7) [(6)] the notification to be given to victims of domestic violence
14 under AS 18.65.520; **and**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (1) prohibit your abuser from threatening to commit or committing further acts of domestic violence;
- (2) prohibit your abuser from stalking, harassing, telephoning, contacting, or otherwise communicating with you, directly or indirectly;
- (3) remove your abuser from your residence;
- (4) order your abuser to stay away from your residence, school, place of employment, or any other specified place frequented by you or another designated household member;
- (5) prohibit your abuser from entering your vehicle or a vehicle you occupy;
- (6) prohibit your abuser from using or possessing a deadly weapon if your abuser used, possessed, or threatened to use a deadly weapon during the commission of your abuse;
- (7) direct your abuser to surrender any firearm owned or possessed by that person if your abuser used, possessed, or threatened to use, a firearm during the commission of your abuse;
- (8) request a peace officer to accompany you to your residence to ensure your safe possession of the residence, vehicle, or other items, or to ensure your safe removal of personal items from the residence;

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

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

6 (11) prohibit your abuser from consuming controlled
7 substances;

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

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

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

16 (15) other relief the court determines to be necessary for
17 your safety.

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

26 You may also qualify for compensation from the Violent Crimes
27 Compensation Board. The board may be contacted at _____
28 _____.

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

30 Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING
31 DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND

1 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)
2 of this section, a peace officer, with or without a warrant, shall arrest a person if the
3 officer has probable cause to believe the person has, either in or outside the presence
4 of the officer, within the previous 12 hours,

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

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

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

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

16 (1) prior complaints of domestic violence;

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

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

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

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

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

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

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

3 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)
4 The Department of Public Safety shall maintain a central registry of protective orders
5 issued by or filed with a court of this state under AS 18.66.100 - 18.66.180. The
6 registry must include for each protective order the names of the petitioner and
7 respondent, their dates of birth, and the conditions and duration of the order. The
8 registry shall retain a record of the protective order after it has expired.

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

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

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

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

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

29 * **Sec. 30.** AS 18.65.705 is amended to read:

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

- 1 (1) is 21 years of age or older;
- 2 (2) is eligible to own or possess a firearm under the laws of this state
3 and under federal law;
- 4 (3) has not been convicted of and is not currently charged under a
5 complaint, information, indictment, or presentment with a felony under the laws of this
6 state or a similar law of another jurisdiction;
- 7 (4) has not been convicted, within the five years immediately preceding
8 the application, of, and is not currently charged under a complaint, information,
9 indictment, or presentment with any of the following misdemeanor offenses or similar
10 laws of another jurisdiction:
- 11 (A) AS 11.41.230, 11.41.250, 11.41.270;
- 12 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;
- 13 (C) AS 11.51.130;
- 14 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,
15 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,
16 11.56.805;
- 17 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;
- 18 [OR]
- 19 (F) AS 11.71.050, 11.71.060; or
- 20 **(G) a crime involving domestic violence as defined in**
21 **AS 18.66.990;**
- 22 (5) has not been convicted of two or more class A misdemeanors of
23 this state or similar laws of another jurisdiction within the five years immediately
24 preceding the application;
- 25 (6) has not within the 10 years immediately preceding the application
26 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;
- 27 (7) is not now suffering, and has not within the five years immediately
28 preceding the application suffered, from a mental illness as defined in AS 47.30.915;
- 29 (8) has not been adjudicated as mentally incapacitated by a court of this
30 state, another state, territory, or jurisdiction, or of the United States, unless the
31 guardianship or similar arrangement has been closed or terminated and five years have

1 elapsed since the closure or other termination;

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

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

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

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

9 (13) is not now the **respondent in a protective order under**
10 **AS 18.66.100 - 18.66.180 or the** subject of an injunction under **former** AS 25.35.010
11 - 25.35.020 unless the **protective order or** injunction has been dissolved or has
12 expired;

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

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

17 (16) has demonstrated competence with handguns as provided in
18 AS 18.65.715.

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

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

1 suspended imposition of sentence.

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

3 (12) consult with the Department of Health and Social Services in the
4 formulation of standards and procedures for the delivery of services to victims of
5 domestic violence by health care facilities and practitioners of healing arts and
6 personnel in those facilities as required in AS 18.66.300;

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

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

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

14 **ARTICLE 2. PROTECTIVE ORDERS.**

15 **Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;**
16 **RELIEF.** (a) A person who is or has been a victim of a crime involving domestic
17 violence may file a petition in the district or superior court for a protective order
18 against a household member. A parent, guardian, or other representative appointed by
19 the court under this section, may file a petition for a protective order on behalf of a
20 minor. The court may appoint a guardian ad litem or attorney to represent 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

28 (1) under (c)(1), (2), (4), or (5) of this section are effective until further
29 order of the court;

30 (2) under (c)(3) or (6) - (16) of this section are effective for one year
31 unless earlier dissolved by court order.

1 (c) A protective order under this section may
2 (1) prohibit the respondent from threatening to commit or committing
3 domestic violence;
4 (2) prohibit the respondent from stalking or harassing the petitioner or
5 telephoning, contacting, or otherwise communicating directly or indirectly with the
6 petitioner;
7 (3) remove and exclude the respondent from the residence of the
8 petitioner, regardless of ownership of the residence;
9 (4) direct the respondent to stay away from the residence, school, or
10 place of employment of the petitioner or any specified place frequented by the
11 petitioner or any designated household member;
12 (5) prohibit the respondent from entering a propelled vehicle in the
13 possession of or occupied by the petitioner;
14 (6) prohibit the respondent from using or possessing a deadly weapon
15 if the court finds the respondent used, or threatened to use, a weapon in the domestic
16 violence or in future domestic violence;
17 (7) direct the respondent to surrender any firearm owned or possessed
18 by the respondent if the court finds that the respondent used, or threatened to use, a
19 firearm in the domestic violence or in future domestic violence;
20 (8) request a peace officer to accompany the petitioner to the
21 petitioner's residence to ensure that the petitioner
22 (A) safely obtains possession of the petitioner's residence,
23 vehicle, or personal items; and
24 (B) is able to safely remove a vehicle or personal items from
25 the petitioner's residence;
26 (9) award temporary custody of a minor child to the petitioner and may
27 arrange for visitation with a minor child if the safety of the child and the petitioner can
28 be protected; if visitation is allowed, the court may order visitation under the
29 conditions provided in AS 25.20.061;
30 (10) give the petitioner possession and use of a vehicle and other
31 essential personal items, regardless of ownership of the items;

1 (11) prohibit the respondent from consuming controlled substances;
2 (12) require the respondent to pay support for the petitioner or a minor
3 child in the care of the petitioner if there is an independent legal obligation of the
4 respondent to support the petitioner or child;
5 (13) require the respondent to reimburse the petitioner or other person
6 for expenses associated with the domestic violence, including medical expenses,
7 counseling, shelter, and repair or replacement of damaged property;
8 (14) require the respondent to pay costs and fees incurred by the
9 petitioner in bringing the action under this chapter;
10 (15) order the respondent, at the respondent's expense, to participate in
11 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
12 standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment
13 for the abuse of alcohol or controlled substances, or both;
14 (16) order other relief the court determines necessary to protect the
15 petitioner or any household member.
16 (d) If the court issues a protective order under this section, it shall
17 (1) make reasonable efforts to ensure that the order is understood by
18 the petitioner and by the respondent, if present; and
19 (2) have the order delivered to the appropriate local law enforcement
20 agency for expedited service and for entry into the central registry of protective orders
21 under AS 18.65.540.
22 (e) A court may not deny a petition for a protective order under this section
23 solely because of a lapse of time between an act of domestic violence and the filing
24 of the petition.
25 Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.
26 (a) A person who is a victim of a crime involving domestic violence may file a
27 petition under AS 18.66.100(a) and request an ex parte protective order. If the court
28 finds that the petition establishes probable cause that a crime involving domestic
29 violence has occurred, it is necessary to protect the petitioner from domestic violence,
30 and if the petitioner has certified to the court in writing the efforts, if any, that have
31 been made to provide notice to the respondent, the court shall ex parte and without

1 notice to the respondent issue a protective order. An ex parte protective order may
2 grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex
3 parte protective order expires 20 days after it is issued unless dissolved earlier by the
4 court at the request of either the petitioner or the respondent and after notice and, if
5 requested, a hearing, or unless extended by the court at the request of the petitioner.
6 If the order is extended, the court shall enter into the record the reasons for the
7 extension. If a court issues an ex parte protective order, the court shall have the order
8 delivered to the appropriate local law enforcement agency for expedited service and
9 for entry into the central registry of protective orders under AS 18.65.540.

10 (b) A peace officer, on behalf of and with the consent of a victim of a crime
11 involving domestic violence, may request an emergency protective order from a
12 judicial officer. The request may be made orally or in writing based upon the sworn
13 statement of a peace officer, and in person or by telephone. If the court finds probable
14 cause to believe that the victim is in immediate danger of domestic violence based on
15 an allegation of the recent commission of a crime involving domestic violence, the
16 court ex parte shall issue an emergency protective order. In an emergency protective
17 order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),
18 (10), (11), and (16). An emergency protective order expires 72 hours after it is issued
19 unless dissolved earlier by the court at the request of the petitioner.

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

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

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

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

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

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

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

4 (1) an ex parte protective order under AS 18.66.110(a), the court shall
5 schedule a hearing on three days' notice or on shorter notice as the court may
6 prescribe; the court shall hear and rule on the request in an expeditious manner; or

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

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

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

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

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

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

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

30 (c) A court may not order parties into mediation or refer them to mediation
31 for resolution of the issues arising from a petition for a protective order under

1 AS 18.66.100 - 18.66.180.

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

4 (1) "Violation of this order may be a misdemeanor, punishable by up
5 to one year of incarceration and up to a \$5,000 fine";

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

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

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

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

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

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

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

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

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

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

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

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

29 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.
30 When a court issues or accepts for filing a protective order under this chapter, it shall
31 send a copy of the order to the appropriate local law enforcement agency. Each law

1 enforcement agency shall establish procedures to inform peace officers of protective
2 orders. Peace officers shall use every reasonable means to enforce a protective order
3 issued or filed under this chapter.

4 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for
5 damages against the state, its officers, agents, or employees, or a law enforcement
6 agency, its officers, agents, or employees for any failure to comply with the provisions
7 of this chapter.

8 ARTICLE 3. EDUCATION AND PREVENTION.

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

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

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

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

31 (b) The administrative director of the Alaska Court System shall, in

1 consultation with the Council on Domestic Violence and Sexual Assault, provide
2 continuing education in domestic violence for judicial officers and court clerks who
3 have contact with parties involved in domestic violence.

4 (c) The Department of Law and other prosecuting authorities in the state shall,
5 in consultation with the Council on Domestic Violence and Sexual Assault, provide
6 continuing education in domestic violence for prosecuting attorneys and other
7 employees who have contact with persons involved in domestic violence.

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

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

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

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

14 and

15 (4) the lethality of domestic violence.

16 ARTICLE 4. GENERAL PROVISIONS.

17 Sec. 18.66.990. DEFINITIONS. In this chapter,

18 (1) "council" means the Council on Domestic Violence and Sexual
19 Assault;

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

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

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

31 (B) burglary under AS 11.46.300 - 11.46.310;

- 1 (C) criminal trespass under AS 11.46.320 - 11.46.330;
- 2 (D) arson or criminally negligent burning under AS 11.46.400 -
- 3 11.46.430;
- 4 (E) criminal mischief under AS 11.46.480 - 11.46.486;
- 5 (F) terroristic threatening under AS 11.56.810;
- 6 (G) violating a domestic violence order under AS 11.56.740; or
- 7 (H) harassment under AS 11.61.120(a)(2) - (4);
- 8 (4) "domestic violence program" means a program that provides
- 9 services to the victims of domestic violence, their families, or perpetrators of domestic
- 10 violence;
- 11 (5) "household member" includes
- 12 (A) adults or minors who are current or former spouses;
- 13 (B) adults or minors who live together or who have lived
- 14 together;
- 15 (C) adults or minors who are dating or who have dated;
- 16 (D) adults or minors who are engaged in or who have engaged
- 17 in a sexual relationship;
- 18 (E) adults or minors who are related to each other up to the
- 19 fourth degree of consanguinity, whether of the whole or half blood or by
- 20 adoption, computed under the rules of civil law;
- 21 (F) adults or minors who are related or formerly related by
- 22 marriage;
- 23 (G) persons who have a child of the relationship; and
- 24 (H) minor children of a person in a relationship that is described
- 25 in (A) - (G) of this paragraph;
- 26 (6) "local community entity" means a city or borough or other political
- 27 subdivision of the state, a nonprofit organization, or a combination of these;
- 28 (7) "judicial day" means any Monday through Friday that is not a state
- 29 holiday and on which the court clerk's offices are officially opened to receive legal
- 30 documents for filing;
- 31 (8) "petitioner" includes a person on whose behalf an emergency

1 protective order has been requested under AS 18.66.110(b);

2 (9) "sexual assault" means a crime specified in AS 11.41.410 -
3 11.41.450;

4 (10) "sexual assault program" means a program that provides services
5 to the victims of sexual assault, their families, or perpetrators of sexual assault.

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

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

13 * **Sec. 35.** AS 22.15.030 is amended to read:

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

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

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

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

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

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

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

31 (7) for the foreclosure of a lien when the amount in controversy does

1 not exceed \$50,000;

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

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

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

9 (b) Insofar as the civil jurisdiction of the district courts and the superior court
10 is the same, the jurisdiction is concurrent. Except for a petition for **a protective order**
11 [INJUNCTIVE RELIEF] under **AS 18.66.100 - 18.66.180** [AS 25.35.010 OR
12 25.35.020], an action that falls within the concurrent jurisdiction of the superior court
13 and the district court may not be filed in the superior court, except as provided by
14 rules of the supreme court.

15 * **Sec. 36.** AS 22.15.100 is amended to read:

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

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

22 (2) of a notary public;

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

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

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

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

31 (7) of the superior court in all respects including but not limited to

1 contempts, attendance of witnesses, and bench warrants;

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

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

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

15 * **Sec. 37.** AS 22.20.110 is amended to read:

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

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

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

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

30 Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC
31 VIOLENCE. If visitation is awarded to a parent who has committed a crime involving

1 domestic violence within the five years preceding the award of visitation, the court
2 may set conditions for the visitation, including

3 (1) the transfer of the child for visitation must occur in a protected
4 setting;

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

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

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

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

16 (6) the prohibition of overnight visitation;

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

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

21 * **Sec. 40.** AS 25.20.080(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 petition for child custody is filed under AS 25.20.060 the court may
24 order the parties to submit to mediation. Each party **has** [SHALL HAVE] the right to
25 challenge peremptorily one mediator appointed.

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

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

1 section are met.

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

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

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

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

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

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

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

20 (a) **Except as provided in (f) and (g) of this section, at** [AT] any time within
21 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the
22 action may file a motion with the court requesting mediation, for the purpose of
23 achieving a mutually agreeable settlement in termination of the marriage. When a
24 party moves for settlement mediation, the other party shall answer the motion on the
25 record, and the judge may order mediation. When no request for mediation is made,
26 the court may at any time order the parties to submit to mediation if it determines that
27 mediation may result in a more satisfactory settlement between the parties.

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

29 (f) The court may not order or refer parties to mediation in a divorce
30 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in
31 effect. The court may not order or refer parties to mediation if a party objects on the

1 grounds that domestic violence has occurred between the parties unless the court finds
2 that the conditions of (g)(1) - (3) of this section are met.

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

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

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

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

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

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

18 (1) providing for the freedom of each spouse from the control of the
19 other spouse;

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

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

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

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

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

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

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

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

7 (d) The court may not order or refer parties to mediation or family counseling
8 under (c) of this section if a protective order issued or filed under AS 18.66.100 -
9 18.66.180 is in effect. The court may not order or refer parties to mediation or family
10 counseling if a party objects on the grounds that domestic violence has occurred
11 between the parties unless the court finds that the conditions of (e)(1) - (3) of this
12 section are met.

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

18 (1) mediation or family counseling is requested by the victim of the
19 alleged domestic violence, or proposed by the court and agreed to by the victim;

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

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

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

27 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition
28 must state in detail the terms of the agreement between the spouses concerning the
29 custody of children, child support, visitation, spousal maintenance and tax
30 consequences, if any, and fair and just division of property, including retirement
31 benefits. Agreements on spousal maintenance and property division must fairly

1 allocate the economic effect of dissolution and take into consideration the factors listed
2 in AS 25.24.160(a)(2) and (4). In addition, the petition must state

3 (1) the respective occupations of the petitioners;

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

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

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

10 (5) whether the wife is pregnant;

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

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

15 (A) **a criminal charge of a crime involving domestic**
16 **violence;**

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

18 (C) **injunctive relief under former AS 25.35.010 or**
19 **25.35.020; or**

20 (D) **a protective order issued in another jurisdiction and**
21 **filed with the court in this state under AS 18.66.140** [A MEMBER OF THE
22 HOUSEHOLD];

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

25 (9) other facts and circumstances that the petitioners believe should be
26 considered;

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

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

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

31 (h) In its examination of a petitioner under (d) of this section, the court shall

1 use a heightened level of scrutiny of agreements if

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

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

7 (A) **a criminal charge of a crime involving domestic**
8 **violence;**

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

10 (C) **injunctive relief under former AS 25.35.010 or**
11 **25.35.020; or**

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

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

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

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

19 CHAPTER 90. GENERAL PROVISIONS.

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

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

23 (g) A victim of a crime involving domestic violence shall be informed by the
24 board at least 30 days in advance of a scheduled hearing to review or consider
25 discretionary parole for a prisoner. The board shall inform the victim of any decision
26 to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c).
27 If the prisoner is to be released, the victim shall be notified of the expected date of the
28 release, the geographic area in which the prisoner will reside, and any other
29 information concerning conditions of parole that may affect the victim. The victim
30 shall also be informed of any changes in the conditions of parole that may affect the
31 victim. The board shall send the notice required to the last known address of the

1 victim. A person may not bring a civil action for damages for a failure to comply
2 with the provisions of this subsection.

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

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

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

16 (a) The board may revoke parole if the parolee

17 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or

18 (f); or

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

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

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

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

26 (2) the seriousness of the alleged violation;

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

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

29 and

30 (5) whether the parolee is on parole for a crime involving domestic
31 violence; if the violation of the condition of parole involved an act of domestic

1 **violence, the parolee may not be released pending the final revocation hearing.**

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

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

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

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

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

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

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

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

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

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

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

24 (f) **Except as provided in (g) of this section, if** [IF] the commissioner
25 considers a prisoner convicted of a crime against a person or arson in the first degree
26 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the
27 commissioner shall send notice of intent to consider the prisoner for a prerelease
28 furlough to the victim. The victim may comment in writing on the commissioner's
29 intent to release the prisoner on a prerelease furlough status. The commissioner shall
30 consider the victim's comments before making a final decision to release a prisoner
31 on a prerelease furlough status. The commissioner shall make a reasonable effort to

1 notify the victim of an intent to release the prisoner on a prerelease furlough. The
2 notice must contain the expected date of the prisoner's release, the geographic area in
3 which the prisoner will reside, and other pertinent information concerning the
4 prisoner's release that may affect the victim.

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

6 (g) If the commissioner considers a prisoner convicted of a crime involving
7 domestic violence for a prerelease furlough, the commissioner shall send notice of
8 intent to consider the prisoner for prerelease furlough to the last known address of the
9 victim. The victim may comment in writing on the commissioner's intention to release
10 the prisoner on a prerelease furlough. The commissioner shall consider the victim's
11 comments, if any, before making a final decision to release the prisoner on a prerelease
12 furlough. The commissioner shall make a reasonable effort to notify the victim of any
13 decision to release the prisoner on the prerelease furlough. The notice must include
14 the expected date of the furlough and any other information concerning the furlough
15 that may affect the victim. A person may not bring a civil action for damages for a
16 failure to comply with the provisions of this subsection.

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

18 (15) "crime involving domestic violence" has the meaning given in
19 AS 18.66.990.

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

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

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

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

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

28 (4) court ordered fines;

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

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

31 (B) under AS 34.50.020 against the parent, parents, or legal

1 guardian of an unemancipated minor;

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

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

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

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

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

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

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

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

30 (1) practitioners of the healing arts;

31 (2) school teachers and school administrative staff members of public

1 and private schools;
2 (3) social workers;
3 (4) peace officers, and officers of the Department of Corrections;
4 (5) administrative officers of institutions;
5 (6) child care providers;
6 (7) paid employees of domestic violence and sexual assault programs,
7 and crisis intervention and prevention programs as defined in AS 18.66.990
8 [AS 18.66.900];
9 (8) paid employees of an organization that provides counseling or
10 treatment to individuals seeking to control their use of drugs or alcohol.

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

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

17 (1) inquiry concerning the criminal records of the parents or of the
18 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the
19 child; and

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

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

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

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

31 (c) For purposes of obtaining access to information needed to conduct the

1 inquiries required by (a)(1) and (2) of this section, the department is a criminal justice
2 agency conducting a criminal justice activity.

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

5 (e) In this section,

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

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

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

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

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

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

14 (2) where the respondent resides; or

15 (3) where the domestic violence occurred.

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

17 (a) Application. At any time after a complaint is filed, a party may file a
18 motion with the court requesting mediation for the purpose of achieving a mutually
19 agreeable settlement. The motion must address how the mediation should be
20 conducted as specified in paragraph (b), including the names of any acceptable
21 mediators. **If domestic violence has occurred between the parties and mediation**
22 **is requested in a matter covered by AS 25, mediation may only be ordered when**
23 **permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered**
24 **by AS 25, the** [THE] court may order mediation in response to such a motion, or on
25 its own motion, whenever it determines that mediation may result in an equitable
26 settlement. In making this determination, the court **shall** [MAY] consider whether
27 there is a history of domestic violence between the parties which could be expected
28 to affect the fairness of the mediation process or the physical safety of the domestic
29 violence victim. Mediation may not be ordered **between the parties to, or** in, a case
30 filed under **AS 18.66.100 - 18.66.180** [AS 25.35.010 OR .020 AND CONDUCT
31 WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES

1 MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].

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

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

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

6 (B) In a proceeding to commit or otherwise place his spouse,
7 the property of his spouse, or both the spouse and the property of the spouse
8 under the control of another because of the alleged mental or physical condition
9 of the spouse; or

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

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

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

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

17 (iii) A crime related to abandonment of a child or
18 nonsupport of a spouse or child.

19 (iv) A crime prior to the marriage.

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

21 **AS 18.66.990.**

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

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

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

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

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

1 these statutes.

2 * **Sec. 74.** TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.

3 A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on
4 the effective date of sec. 72 of this Act remains in effect until it expires under the terms of
5 the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs
6 earlier.

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

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

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

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

22 * **Sec. 79.** AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule
23 613, Alaska Rules of Evidence, relating to impeachment of witnesses.

24 * **Sec. 80.** Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76
25 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
26 Constitution of the State of Alaska.

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

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

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

1 * **Sec. 84.** Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of
2 this Act.