

SENATE BILL NO. 246

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/26/96

Referred: JUD, FIN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to domestic violence; amending Alaska Rule of Civil Procedure
2 3, Alaska Rule of Civil Procedure 100, Alaska Rule of Evidence 505, and
3 Alaska Rule of Administration 9; and providing for an effective date."

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

5 * **Section 1.** SHORT TITLE. This Act shall be known as the Domestic Violence
6 Prevention Act of 1996.

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

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

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

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

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

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

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

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

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

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

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

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

1 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

2 * **Sec. 4.** AS 11.41.270(b)(2) is amended to read:

3 (2) "family member" **has the meaning given in AS 18.66.990**

4 [MEANS A

5 (A) SPOUSE, CHILD, GRANDCHILD, PARENT,
6 GRANDPARENT, SIBLING, UNCLE, AUNT, NEPHEW, OR NIECE, OF
7 THE VICTIM, WHETHER RELATED BY BLOOD, MARRIAGE, OR
8 ADOPTION;

9 (B) PERSON WHO LIVES, OR HAS PREVIOUSLY LIVED,
10 IN A SPOUSAL RELATIONSHIP WITH THE VICTIM;

11 (C) PERSON WHO LIVES IN THE SAME HOUSEHOLD AS
12 THE VICTIM; OR

13 (D) PERSON WHO IS A FORMER SPOUSE OF THE
14 VICTIM OR IS OR HAS BEEN IN A DATING, COURTSHIP, OR
15 ENGAGEMENT RELATIONSHIP WITH THE VICTIM];

16 * **Sec. 5.** AS 11.46.350(a) is amended to read:

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

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

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

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

27 * **Sec. 6.** AS 11.56 is amended by adding a new section to read:

28 Sec. 11.56.741. VIOLATING A PROTECTIVE ORDER. (a) A person
29 commits the crime of violating a protective order if the person is subject to a
30 protective order and knowingly commits or attempts to commit an act in violation of
31 the protective order that grants the protection provided by AS 18.66.100(c)(1) - (7).

1 (b) It is not a defense to a prosecution under (a) of this section that the person
2 who obtained the protective order initiated the contact or invited the defendant into the
3 residence of that person, regardless of ownership of the residence, or into a propelled
4 vehicle in the possession of or occupied by that person.

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

7 (d) Violation of this section is a class A misdemeanor.

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

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

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

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

16 (1) shall make an arrest under the circumstances described in
17 AS 18.65.530;

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

20 (A) committed a crime involving domestic violence, whether the
21 crime is a felony or a misdemeanor;

22 (B) committed the crime of violating a protective order in
23 violation of AS 11.56.741; or

24 (C) violated a condition of release imposed under AS 12.30.025.

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

27 (A) has committed a crime under or violated conditions imposed
28 as part of the person's release before trial on misdemeanor charges brought
29 under AS 04.16.050 or an ordinance with similar elements; or

30 (B) has violated AS 04.16.050; however, unless there is a lawful

1 reason for further detention, a person who is under the age of 18 and who has
2 been arrested for violating AS 04.16.050 shall be cited for the offense and
3 released to the person's parent, guardian, or legal custodian.

4 * **Sec. 9.** AS 12.25.030 is amended by adding a new subsection to read:

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

7 * **Sec. 10.** AS 12.25.180(a) is amended to read:

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

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

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

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

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

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

22 * **Sec. 11.** AS 12.30.025 is repealed and reenacted to read:

23 Sec. 12.30.025. RELEASE IN DOMESTIC VIOLENCE CASES. (a) Before
24 ordering release before or after trial, or pending appeal, of a person charged with or
25 convicted of a crime involving domestic violence, the court shall consider the safety
26 of the alleged victim or other family member. To protect the alleged victim, family
27 member, and the public and to reasonably assure the person's appearance, the court
28 may impose bail and may order any of the conditions authorized under AS 12.30.020,
29 AS 18.66.100(c)(1) - (7) and (11), and any other condition necessary to protect the
30 alleged victim, family member, and the public, and to ensure the appearance of the
31 person in court.

1 (b) A court may not order or permit a person released under (a) of this section
2 to return to the residence of the alleged victim or the residence of a petitioner who has
3 a protective order directed to the person and issued or filed under AS 18.66.100 -
4 18.66.180.

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

10 (d) When a person is released from custody under (a) of this section, the
11 correctional institution shall notify the prosecuting authority. The prosecuting authority
12 shall make reasonable efforts to immediately notify the alleged victim of the release,
13 and to furnish the alleged victim with a copy of the order setting any conditions of
14 release.

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

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

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

21 (g) The court shall order the forfeiture to the arresting authority of a deadly
22 weapon that was in the actual possession of or used by the defendant during the
23 commission of a crime involving domestic violence.

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

25 Sec. 12.55.101. **ADDITIONAL CONDITIONS OF PROBATION FOR**
26 **DOMESTIC VIOLENCE CRIMES.** (a) Before granting probation to a person
27 convicted of a crime involving domestic violence, the court shall consider the safety
28 and protection of the victim and any member of the victim's family. If a person
29 convicted of a crime involving domestic violence is placed on probation, the court may
30 order the conditions authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7), and

31 (1) may, if available in the community where the defendant resides,

1 require the defendant to participate in and complete to the satisfaction of the court one
2 or more programs for the rehabilitation of perpetrators of domestic violence that meet
3 the standards set by the Department of Corrections under AS 44.28.020(b);

4 (2) may require the defendant to participate in treatment for the abuse
5 of alcohol or controlled substances;

6 (3) may order the defendant to undergo psychiatric or psychological
7 evaluation or treatment; and

8 (4) may impose any other condition necessary to protect the victim and
9 any members of the victim's family, or to rehabilitate the defendant.

10 (b) If the defendant is not in custody, the defendant shall pay the costs of an
11 evaluation or a program of rehabilitation or treatment ordered under (a)(1) - (3) of this
12 section. If the defendant is in custody, the defendant's responsibility for costs shall
13 be ordered under AS 33.30.028.

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

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

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

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

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

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

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

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

28 (A) of the defendant's conviction and the crimes of which the
29 defendant was convicted;

30 (B) of the victim's right in a case that is a felony to make a
31 written or oral statement for use in preparation of the defendant's presentence

1 report, and of the victim's right to appear personally at the defendant's
2 sentencing hearing to present a written statement and to give sworn testimony
3 or an unsworn oral presentation;

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

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

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

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

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

12 (b) If the defendant is proceeding without counsel in a case involving a
13 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740,
14 AS 11.56.810, [OR] 11.61.190 - .210, **or a crime involving domestic violence,** and
15 the court finds that the defendant may pose a continuing threat to the victim of or
16 witness to the offense charged, the court shall protect the address and telephone
17 number of the victim or witness by providing the information only to a person
18 specified by the court or by imposing other restrictions that the court considers
19 necessary. When an address or telephone number is released to a person specified by
20 the court under this subsection, that person, who shall be ordered not to disclose the
21 information to the defendant, shall contact the victim or witness on behalf of the
22 defendant, and the defendant shall meet or speak with the victim or witness only in the
23 presence of that person.

24 * **Sec. 18.** AS 12.61.900 is amended by adding a new paragraph to read:

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

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

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

- 1 (A) AS 11.41.410 - 11.41.470;
- 2 (B) AS 11.51.130(a)(1),(3), or (5);
- 3 (C) AS 11.61.110(a)(7);
- 4 (D) AS 11.66.100 - 11.66.130; or
- 5 (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -
- 6 11.40.420, if committed before January 1, 1980;

7 * **Sec. 20.** AS 12.62.900 is amended by adding a new paragraph to read:

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

10 * **Sec. 21.** AS 18.65.240(a) is amended to read:

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

19 * **Sec. 22.** AS 18.65.242(b) is amended to read:

20 (b) The council shall

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

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

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

26 (B) meets the minimum education standards of (a)(2) of this
27 section by satisfactorily completing a training program for correctional,
28 probation, or parole officers established under AS 18.65.230, **including**
29 **training regarding domestic violence that contains the subjects set out in**
30 **AS 18.66.310(b)**, or a course of instruction in another jurisdiction equivalent
31 in content and quality to that required by the council for approved correctional,

1 probation, or parole officer education and training programs in this state.

2 * **Sec. 23.** AS 18.65.510(a) is amended to read:

3 (a) Each established police training program in the state shall provide training
4 that acquaints police officers with

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

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

9 (3) **the investigation and management of cases involving domestic**
10 **violence and report writing for these cases;**

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

13 (5) [(4)] procedures applicable in the prosecution of cases involving
14 domestic violence;

15 (6) [(5)] orders that may be issued by **or filed with** a court under
16 **AS 18.66.100 - 18.66.180** [AS 25.35.010 AND 25.35.020]; [AND]

17 (7) [(6)] the notification to be given to victims of domestic violence
18 under AS 18.65.520; **and**

19 (8) **the subjects set out in AS 18.66.310(b).**

20 * **Sec. 24.** AS 18.65.510(b) is amended to read:

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

25 * **Sec. 25.** AS 18.65 is amended by adding a new section to read:

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

30 (1) seizing any deadly weapon used in the alleged domestic violence;

31 (2) transporting an adult victim and any member of the victim's family

1 from the place of the offense or the place of contact, to a location within the
2 community where the offense occurred that is a shelter, a safe home, or another
3 location in the community requested by the victim;

4 (3) assisting the victim in removing from the residence essential items
5 belonging to the victim, such as clothing, vehicles, medication, personal records, and
6 legal documents;

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

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

13 (b) A peace officer investigating a crime involving domestic violence may
14 seize a deadly weapon in plain view of the officer, or otherwise discovered in a legal
15 search, if the officer determines that seizure is necessary to protect the victim or the
16 victim's family from domestic violence, or to protect the officer or the public during
17 the investigation. The weapon may be returned to the owner no sooner than 24 hours
18 after the peace officer determines it is not needed as evidence.

19 * **Sec. 26.** AS 18.65.520(a) is repealed and reenacted to read:

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

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

28 You may also request the officer to assist you in obtaining your essential
29 personal belongings and locating and taking you to a safe place, including a designated
30 meeting place or shelter, the residence of a family member or friend, or a similar place
31 of safety. In some places in Alaska there are organizations that provide aid and shelter

1 to victims of domestic violence. The nearest organization is located at _____.

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

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

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

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

13 (2) prohibit your abuser from harassing, telephoning, contacting or
14 otherwise communicating with you, directly or indirectly;

15 (3) remove your abuser from your residence;

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

19 (5) prohibit your abuser from entering your vehicle or a vehicle you
20 occupy;

21 (6) prohibit your abuser from using or possessing a deadly weapon;

22 (7) direct your abuser to surrender any firearm owned or possessed by
23 that person;

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

27 (9) grant you possession and use of a vehicle and other essential
28 personal effects;

29 (10) grant you temporary custody of your child or children;

30 (11) deny your abuser visitation with your child or children;

31 (12) specify arrangements for visitation, including supervised

1 visitation;

2 (13) require your abuser to pay certain costs and fees, such as rent or
3 mortgage payments, child support payments, medical expenses, expenses for shelter,
4 court costs, and attorney’s fees;

5 (14) prohibit your abuser from consuming alcohol or controlled
6 substances;

7 (15) order your abuser to participate in a program for batterers; and

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

9 The forms you need to obtain a protective order are available from the nearest
10 court. It is not necessary to have an attorney to obtain a protective order, but you may
11 consult an attorney if you choose. If you would like help obtaining a protective order,
12 you may contact the nearest domestic violence program located at _____.

13 The program can also tell you about other resources available in this community for
14 information about domestic violence, treatment of injuries, and places of safety and
15 shelter.

16 You may also qualify for compensation from the Violent Crimes Compensation
17 Board. The board may be contacted at _____.

18 * **Sec. 27.** AS 18.65 is amended by adding new sections to article 6 to read:

19 Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING
20 DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND
21 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)
22 of this section, a peace officer, with or without a warrant, shall arrest a person if the
23 officer has probable cause to believe the person has, either in or outside the presence
24 of the officer, within the previous 12 hours

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

27 (2) committed the crime of violating a protective order in violation of
28 AS 11.56.741;

29 (3) violated a condition of release imposed under AS 12.30.025.

30 (b) If a peace officer receives complaints of domestic violence from more than
31 one person arising from the same incident, the officer shall evaluate the conduct of

1 each person to determine who was the principal physical aggressor. If the officer
2 determines that one person was the principal physical aggressor, the other person or
3 persons need not be arrested. In determining whether a person is a principal physical
4 aggressor, the officer shall consider

- 5 (1) prior complaints of domestic violence;
- 6 (2) the relative severity of the injuries inflicted on each person;
- 7 (3) the likelihood of future injury from domestic violence to each
8 person; and
- 9 (4) whether one of the persons acted in defense of self or others.

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

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

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

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

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

29 (b) A peace officer receiving a protective order from a court under
30 AS 18.66.100 - 18.66.180 must take reasonable steps to ensure that the order is entered
31 into the central registry within 24 hours after being received.

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

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

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

14 Sec. 18.65.590. DEFINITIONS. In AS 18.65.510 - 18.65.590, "domestic
15 violence" has the meaning given in AS 18.66.990.

16 * **Sec. 28.** AS 18.65.705(4) is amended to read:

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

21 (A) AS 11.41.230, 11.41.250, 11.41.270;

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

23 (C) AS 11.51.130;

24 (D) AS 11.56.330, 11.56.340, former 11.56.350, 11.56.380,
25 11.56.545, 11.56.700, 11.56.710, 11.56.740, **11.56.741**, 11.56.780, 11.56.790,
26 11.56.800, 11.56.805;

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

28 [OR]

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

30 **(G) a crime involving domestic violence as defined in**
31 **AS 18.66.990;**

1 * **Sec. 29.** AS 18.65.705(13) is amended to read:

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

6 * **Sec. 30.** AS 18.65.735(a) is amended to read:

7 (a) The department shall immediately suspend a permit to carry a concealed
8 handgun if a permittee is arrested for or formally charged with a crime that would
9 disqualify the permittee under AS 18.65.705(3) - (4) from being eligible for a permit
10 to carry a concealed handgun or is the **respondent in a protective order under**
11 **AS 18.66.100 - 18.66.180 or the** subject of an injunction under **former**
12 AS 25.35.010 - 25.35.020. A suspension of a permit remains in effect until the permit
13 is revoked under AS 18.65.740, the department has been notified of a disposition
14 favorable to the defendant or the defendant has been released from custody without
15 being charged, or the **protective order under AS 18.66.100 - 18.66.180 or the**
16 **injunction under former** AS 25.35.010 - 25.35.020 is dissolved or expires without
17 being renewed. In this subsection, "disposition favorable to the defendant" means a
18 dismissal by the prosecutor or an adjudication by a court other than a conviction or a
19 suspended imposition of sentence.

20 * **Sec. 31.** AS 18.66.050 is amended by adding new paragraphs to read:

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

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

28 (14) consult with public employers, the Alaska Supreme Court, school
29 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.340 to
30 provide continuing education courses in domestic violence to employees.

31 * **Sec. 32.** AS 18.66 is amended by adding new sections to read:

1 ARTICLE 2. PROTECTIVE ORDERS.

2 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;
3 RELIEF. (a) A person who is or has been a victim of a crime involving domestic
4 violence may file a petition in the district or superior court for a protective order
5 against a family member. A parent, guardian, or other representative may file a
6 petition for a protective order on behalf of a minor. The court may appoint a guardian
7 ad litem or attorney to represent the minor.

8 (b) When a petition for a protective order is filed, the court shall schedule a
9 hearing, and provide at least 10 days' notice to the respondent of the hearing and of
10 the respondent's right to appear and be heard, either in person or by an attorney. If
11 the court finds by a preponderance of evidence that the respondent has committed a
12 crime involving domestic violence against the petitioner, regardless of whether the
13 respondent appears at the hearing, the court may order any relief available under (c)
14 of this section. A protective order issued under this section is effective until further
15 order of the court.

16 (c) A protective order under this section may

17 (1) prohibit the respondent from threatening to commit or committing
18 domestic violence;

19 (2) prohibit the respondent from harassing, telephoning, contacting, or
20 otherwise communicating directly or indirectly with the petitioner;

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

23 (4) direct the respondent to stay away from the residence, school, or
24 place of employment of the petitioner or any specified place frequented by the
25 petitioner or any designated family member;

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

28 (6) prohibit the respondent from using or possessing a deadly weapon;

29 (7) direct the respondent to surrender any firearm owned or possessed
30 by the respondent;

31 (8) request a peace officer to accompany the petitioner to the

1 petitioner's residence to ensure that

2 (A) the petitioner safely obtains possession of the petitioner's
3 residence, vehicle, or personal items; or

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

6 (9) give the petitioner possession and use of a vehicle and other
7 essential personal items, regardless of ownership of the items;

8 (10) award temporary custody of a minor child to the petitioner;

9 (11) prohibit the respondent from consuming alcohol or controlled
10 substances;

11 (12) consider requests and arrangements for visitation of any minor
12 child; if the safety of the child and petitioner can be protected, the court may order
13 visitation under the conditions provided in AS 25.20.062;

14 (13) require the respondent to pay

15 (A) rent or make payment on a mortgage on petitioner's
16 residence; and

17 (B) support of the petitioner and any minor child if the
18 respondent is found to have a duty to support the petitioner or minor child;

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

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

24 (16) order the respondent, at the respondent's expense, to participate in

25 (A) a program for the rehabilitation of perpetrators of domestic
26 violence that meets the standards set by the Department of Corrections under
27 AS 44.28.020(b); or

28 (B) treatment for the abuse of alcohol or controlled substances;

29 (17) order other relief the court determines necessary to protect the
30 petitioner or any family member.

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

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

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

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

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

10 (a) A person who is a victim of a crime involving domestic violence may file a
11 petition under AS 18.66.100(a) and request an ex parte protective order. If the court
12 finds that the petition establishes probable cause that a crime involving domestic
13 violence has occurred and it is necessary to protect the petitioner from domestic
14 violence, the court shall ex parte and without notice or hearing issue a protective
15 order. An ex parte protective order may grant the protection provided by
16 AS 18.66.100(c)(1) - (11) and (17). An ex parte protective order expires 20 days after
17 it is issued, unless extended by the court for good cause or dissolved earlier by the
18 court. If a court issues an ex parte protective order, the court shall have the order
19 delivered to the appropriate local law enforcement agency for expedited service and
20 for entry into the central registry of protective orders under AS 18.65.540.

21 (b) A peace officer, on behalf of and with the consent of a victim of a crime
22 involving domestic violence, may request an emergency protective order from a
23 judicial officer. The request may be made orally or in writing, and in person or by
24 telephone. If the court finds probable cause that the victim is in immediate danger of
25 domestic violence based on an allegation of the recent commission of a crime
26 involving domestic violence, the court ex parte shall issue an emergency protective
27 order. In an emergency protective order, the court may grant the protection provided
28 by AS 18.66.100(c)(1) - (11) and (17). A court issuing an emergency protective order
29 shall schedule a hearing on the order within 72 hours after its issuance. An emergency
30 protective order expires 72 hours after it is issued unless dissolved earlier by the court.

31 (c) A peace officer who obtains an emergency protective order under (b) of

1 this section shall

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

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

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

7 (4) comply with the requirements of AS 18.65.540 for providing the
8 order for entry into the central registry of protective orders under AS 18.65.540.

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

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

15 (1) an emergency protective order under AS 18.66.110(b), the court
16 shall schedule a hearing within 24 hours after the request or within 72 hours after
17 issuance of the order, whichever is earlier;

18 (2) an ex parte protective order under AS 18.66.110(a), the court shall
19 schedule a hearing within 72 hours after the request or within 20 days after issuance
20 of the order, whichever is earlier; or

21 (3) a protective order after notice and hearing under AS 18.66.100(b),
22 the court shall schedule a hearing within 30 days after the date the request is made.

23 (b) At a hearing for modification of a protective order, if the respondent raises
24 an issue not raised by the petitioner, the court may continue the hearing at the
25 petitioner's request.

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

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

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

1 under AS 18.65.540.

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

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

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

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

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

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

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

27 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS
28 ISSUED IN OTHER STATES. (a) A certified copy of a protective order issued in
29 another state may be filed with the clerk of court in any judicial district in this state.

30 (b) A protective order filed in accordance with (a) of this section has the same
31 effect and must be enforced in the same manner as a protective order issued by a court

1 of this state.

2 (c) When a protective order is filed with the court under this section, the court
3 shall have the order delivered to the appropriate local law enforcement agency for
4 expedited service and for entry into the central registry of protective orders under
5 AS 18.65.540.

6 Sec. 18.66.150 FORMS FOR PETITIONS AND ORDERS; FEES. (a) The
7 Alaska Court System, after consulting with the Council on Domestic Violence and
8 Sexual Assault and other interested persons and organizations, shall prepare forms for
9 petitions, protective orders, and instructions for their use by a person seeking a
10 protective order under this chapter. The forms shall conform to the Alaska Rules of
11 Civil Procedure, except that information requested on the forms may be provided in
12 legible handwriting.

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

19 (c) The office of the clerk of each superior and district court shall make the
20 forms and instructions for petitions for protective orders available to the public. The
21 clerk shall provide forms for service of process, forms required by AS 25.30 (Uniform
22 Child Custody Jurisdiction Act), and assistance in completing the forms and filing the
23 petition.

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

26 Sec. 18.66.160. SERVICE OF PROCESS. (a) Process issued under this
27 chapter shall be promptly served and executed. If process is to be served upon a
28 person believed to be present or residing in a municipality, as defined in AS 29.71.800,
29 or in an unincorporated community, process shall be served by a peace officer of that
30 municipality or unincorporated community who has jurisdiction within the area of
31 service. If a peace officer of the municipality or unincorporated community who has

1 jurisdiction is not available, a superior court, district court, or magistrate may designate
2 any other peace officer to serve and execute process. A state peace officer shall serve
3 process in any area that is not within the jurisdiction of a peace officer of a
4 municipality or unincorporated community. A peace officer shall use every reasonable
5 means to serve process issued under this chapter.

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

8 (c) Fees for service of process may not be charged in any proceeding seeking
9 only the relief provided in this chapter.

10 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.

11 When a court issues or accepts for filing a protective order under this chapter, it shall
12 send a copy of the order to the appropriate local law enforcement agency. Each law
13 enforcement agency shall establish procedures to inform peace officers of protective
14 orders. Peace officers shall use every reasonable means to enforce a protective order
15 issued or filed under this chapter.

16 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for
17 damages for any failure to comply with the provisions of this chapter.

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

19 ARTICLE 4. EDUCATION AND PREVENTION.

20 Sec. 18.66.300. STANDARDS AND PROCEDURES FOR HEALTH CARE
21 IN DOMESTIC VIOLENCE CASES. (a) The Department of Health and Social
22 Services shall adopt standards and procedures for the delivery of services to victims
23 of domestic violence by health care facilities and practitioners of the healing arts and
24 personnel in those facilities. The standards and procedures shall be formulated in
25 consultation with the Council on Domestic Violence and Sexual Assault, the
26 Department of Commerce and Economic Development, private agencies that provide
27 services for victims of domestic violence, and persons with expertise in providing
28 health care and other services to victims of domestic violence.

29 (b) The Department of Health and Social Services shall make available to
30 health care facilities and practitioners of the healing arts and personnel in those
31 facilities a written notice of the rights of victims of domestic violence and the services

1 available to them. The notice shall be substantially similar to the notice provided in
2 AS 18.65.520(a).

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

5 Sec. 18.66.310. CONTINUING EDUCATION FOR PUBLIC EMPLOYEES.

6 (a) Employers of state or local public employees shall, in consultation with the
7 Council on Domestic Violence and Sexual Assault, provide continuing education in
8 domestic violence for the public employees who work with children and families or
9 who are required by law to report abuse or neglect of children.

10 (b) The continuing education must include information on the following
11 subjects:

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

13 (2) procedures designed to promote the safety of the victim and other
14 family members;

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

16 (4) sensitivity to gender bias and cultural, racial, and sexual issues
17 related to domestic violence; and

18 (5) the lethality of domestic violence.

19 (c) In this section "public employee" means a person employed by the state
20 or local government who works in any of the following disciplines:

21 (1) workers in children's protective services;

22 (2) psychologists;

23 (3) social workers;

24 (4) guardians ad litem;

25 (5) mediators; or

26 (6) custody evaluators.

27 Sec. 18.66.320. CONTINUING EDUCATION FOR EMPLOYEES OF
28 PUBLIC SCHOOLS. School districts in the state shall, in consultation with the
29 Council on Domestic Violence and Sexual Assault, provide continuing education in
30 domestic violence for employees of public schools who are required to report abuse
31 or neglect of children. The continuing education must include the subject matter

1 described in AS 18.66.310(b) and information concerning domestic violence issues as
2 they relate to children.

3 Sec. 18.66.330. CONTINUING EDUCATION FOR COURT SYSTEM
4 EMPLOYEES. The Alaska Supreme Court shall, in consultation with the Council on
5 Domestic Violence and Sexual Assault, provide continuing education in domestic
6 violence for judicial officers and court personnel who have contact with parties
7 involved in domestic violence. The continuing education must include the subject
8 matter described in AS 18.66.310(b).

9 Sec. 18.66.340. CONTINUING EDUCATION FOR PROSECUTING
10 AUTHORITIES. The Department of Law and other prosecuting authorities in the state
11 shall, in consultation with the Council on Domestic Violence and Sexual Assault,
12 provide continuing education in domestic violence for prosecuting attorneys and other
13 employees who have contact with persons involved in domestic violence. The
14 continuing education must include the subject matter described in AS 18.66.310(b).

15 * **Sec. 34.** AS 18.66 is amended by adding a new section to read:

16 ARTICLE 5. 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 an attempt to commit the offense, by a
28 family member against another family member:

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

30 (B) burglary under AS 11.46.300 - 11.46.310;

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

- 1 (D) arson or criminally negligent burning under AS 11.46.400 -
2 11.46.430;
- 3 (E) criminal mischief under AS 11.46.480 - 11.46.486;
4 (F) terroristic threatening under AS 11.56.810;
5 (G) violating a domestic violence restraining order under
6 AS 11.56.740 or violating a protective order under AS 11.56.741; 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) "family 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 by blood or adoption;
19 (F) adults or minors who are related or formerly related by
20 marriage;
- 21 (G) persons who have a child of the relationship; and
22 (H) minor children of a person in a relationship that is described
23 in (A) - (G) of this paragraph;
- 24 (6) "local community entity" means a city or borough or other political
25 subdivision of the state, a nonprofit organization, or a combination of these;
- 26 (7) "judicial day" means any Monday through Friday that is not a state
27 holiday and on which the court clerk's offices are officially opened to receive legal
28 documents for filing;
- 29 (8) "petitioner" includes a person on whose behalf an emergency
30 protective order has been requested under AS 18.66.110(b);
- 31 (9) "sexual assault" means a crime specified in AS 11.41.410 -

1 11.41.450;

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

4 * **Sec. 35.** AS 22.10.020(a) is amended to read:

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

11 * **Sec. 36.** AS 22.15.030(a)(10) is amended to read:

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

14 * **Sec. 37.** AS 22.15.030(b) is amended to read:

15 (b) Insofar as the civil jurisdiction of the district courts and the superior court
16 is the same, the jurisdiction is concurrent. Except for a petition for **a protective order**
17 [INJUNCTIVE RELIEF] under **AS 18.66.100 - 18.66.180** [AS 25.35.010 OR
18 25.35.020], an action that falls within the concurrent jurisdiction of the superior court
19 and the district court may not be filed in the superior court, except as provided by
20 rules of the supreme court.

21 * **Sec. 38.** AS 22.15.100(9) is amended to read:

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

25 * **Sec. 39.** AS 22.20.110 is amended to read:

26 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF
27 APPEALS, THE SUPERIOR COURT AND DISTRICT COURTS. When required by
28 the supreme court, and except as otherwise provided in **AS 18.66.160** [AS 25.35.040],
29 the commissioner shall serve and execute all process issued by the court of appeals,
30 the superior court, and the district courts; attend to and wait upon grand and petit
31 juries; maintain order; attend the sessions of the courts; and exercise the power and

1 perform the duties concerning all matters within the jurisdiction of the courts as may
2 be assigned. The commissioner is the executive officer of the court of appeals, the
3 superior court, and district courts.

4 * **Sec. 40.** AS 25.20.060(a) is amended to read:

5 (a) If there is a dispute over child custody, either parent may petition the
6 superior court for resolution of the matter under AS 25.20.060 - 25.20.130. The court
7 shall award custody on the basis of the best interests of the child. In determining the
8 best interests of the child, the court shall consider all relevant factors including **the**
9 **provisions of AS 25.20.061 and** those factors enumerated in AS 25.24.150(c). In a
10 custody determination under this section, the court shall provide for visitation by a
11 grandparent or other person if that is in the best interests of the child.

12 * **Sec. 41.** AS 25.20.060(b) is amended to read:

13 (b) **Except as provided in AS 25.20.061, neither** [NEITHER] parent,
14 regardless of the question of the child's legitimacy, is entitled to preference in the
15 awarding of custody.

16 * **Sec. 42.** AS 25.20.060 is amended by adding a new subsection to read:

17 (d) If the court finds that a parent or child is a victim of domestic violence,
18 the court may order that the address of the parent or child be kept confidential in the
19 proceedings.

20 * **Sec. 43.** AS 25.20 is amended by adding new sections to read:

21 Sec. 25.20.061. PRESUMPTIONS IN PROCEEDINGS INVOLVING
22 DOMESTIC VIOLENCE. (a) If the court finds in a proceeding involving child
23 custody that domestic violence has occurred, rebuttable presumptions arise that it is

24 (1) detrimental to the child and not in the best interest of the child to
25 be placed in sole custody, joint legal custody, or joint physical custody with the
26 perpetrator of the domestic violence; and

27 (2) in the best interest of the child to reside with the parent who is not
28 a perpetrator of domestic violence in a location of that parent's choice, inside or
29 outside the state.

30 (b) In addition to the rebuttable presumptions that a court must consider under
31 (a) of this section, if the court finds that domestic violence has occurred, the court

1 shall consider the following factors in making an award of child custody:

2 (1) the safety and well-being of the child or of the parent who is the
3 victim of domestic violence;

4 (2) the perpetrator's history of causing physical harm, bodily injury,
5 assault, or causing reasonable fear of physical harm, bodily injury, or assault, to
6 another person.

7 (c) If a parent is absent or relocates because of an act of domestic violence by
8 the other parent, the court may not consider the absence or relocation as a factor
9 against that parent in determining custody.

10 Sec. 25.20.062. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC
11 VIOLENCE. (a) A court may award visitation to a parent who has committed
12 domestic violence only if the court finds the safety of the child and the other parent
13 can be protected.

14 (b) If visitation is awarded under (a) of this section, the court may set
15 conditions for the visitation, including

16 (1) the transfer of the child for visitation occur in a protected setting;

17 (2) visitation is supervised by another person or agency and under
18 specified conditions as ordered by the court;

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

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

26 (5) the perpetrator pay costs of supervised visitation as set by the court;

27 (6) the prohibition of overnight visitation;

28 (7) the perpetrator post a bond to the court for the return and safety of
29 the child; and

30 (8) any other condition necessary for the safety of the child, the other
31 parent, or other family member.

1 * **Sec. 44.** AS 25.20.070 is amended to read:

2 Sec. 25.20.070. TEMPORARY CUSTODY OF THE CHILD. Unless it is
3 shown to be detrimental to the welfare of the child **or the court determines that**
4 **domestic violence has occurred**, the child shall have, to the greatest degree practical,
5 equal access to both parents during the time that the court considers an award of
6 custody under AS 25.20.060 - 25.20.130.

7 * **Sec. 45.** AS 25.20.080(a) is amended to read:

8 (a) **Except as provided in (f) and (g) of this section, at** [AT] any time within
9 30 days after a petition for child custody is filed under AS 25.20.060 the court may
10 order the parties to submit to mediation. Each party **has** [SHALL HAVE] the right
11 to challenge peremptorily one mediator appointed.

12 * **Sec. 46.** AS 25.20.080 is amended by adding new subsections to read:

13 (f) The court may not order or refer parties to mediation in a proceeding
14 concerning custody or visitation of a child if a protective order issued or filed under
15 AS 18.66.100 - 18.66.180 is in effect. The court may not order or refer parties to
16 mediation if a party objects on the grounds that domestic violence has occurred
17 between the parties unless the court finds that the conditions of (g)(1) - (3) of this
18 section are met.

19 (g) A mediator who receives a referral or order from a court to conduct
20 mediation under (a) of this section shall evaluate whether domestic violence has
21 occurred between the parties. A mediator may not engage in mediation when it
22 appears to the mediator, or when either party asserts, that domestic violence has
23 occurred unless

24 (1) mediation is requested by the victim of the alleged domestic
25 violence;

26 (2) mediation is provided by a mediator who is trained in domestic
27 violence in a manner that protects the safety of the victim and any family member,
28 taking into account the results of an assessment of the potential danger posed by the
29 perpetrator and the risk of harm to the victim; and

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

1 * **Sec. 47.** AS 25.20.090 is amended to read:

2 Sec. 25.20.090. FACTORS FOR CONSIDERATION IN AWARDING
3 SHARED CHILD CUSTODY. In determining whether to award shared custody of a
4 child the court shall consider

5 (1) **presumptions under AS 25.20.061;**

6 (2) the child's preference if the child is of sufficient age and capacity
7 to form a preference;

8 (3) [(2)] the needs of the child;

9 (4) [(3)] the stability of the home environment likely to be offered by
10 each parent;

11 (5) [(4)] the education of the child;

12 (6) [(5)] the advantages of keeping the child in the community where
13 the child presently resides;

14 (7) [(6)] the optimal time for the child to spend with each parent
15 considering

16 (A) the actual time spent with each parent;

17 (B) the proximity of each parent to the other and to the school
18 in which the child is enrolled;

19 (C) the feasibility of travel between the parents;

20 (D) special needs unique to the child that may be better met by
21 one parent than the other;

22 (E) which parent is more likely to encourage frequent and
23 continuing contact with the other parent;

24 (8) [(7)] any findings and recommendations of a neutral mediator;

25 (9) [(8)] any evidence of domestic violence, child abuse, or child
26 neglect in the proposed custodial household or a history of violence between the
27 parents;

28 (10) [(9)] evidence that substance abuse by either parent or other
29 members of the household directly affects the emotional or physical well-being of the
30 child;

31 (11) [(10)] other factors the court considers pertinent.

1 * **Sec. 48.** AS 25.20.110 is amended by adding a new subsection to read:

2 (c) In a proceeding involving the modification of an award for custody of a
3 child or visitation with a child, a finding that domestic violence has occurred since the
4 last custody or visitation determination is a finding of change of circumstances under
5 (a) of this section.

6 * **Sec. 49.** AS 25.24.060(a) is amended to read:

7 (a) **Except as provided in (f) and (g) of this section, at** [AT] any time within
8 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the
9 action may file a motion with the court requesting mediation, for the purpose of
10 achieving a mutually agreeable settlement in termination of the marriage. When a
11 party moves for settlement mediation, the other party shall answer the motion on the
12 record, and the judge may order mediation. When no request for mediation is made,
13 the court may at any time order the parties to submit to mediation if it is determined
14 that mediation may result in a more satisfactory settlement between the parties.

15 * **Sec. 50.** AS 25.24.060 is amended by adding new subsections to read:

16 (f) The court may not order or refer parties to mediation in a divorce
17 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in
18 effect. The court may not order or refer parties to mediation if a party objects on the
19 grounds that domestic violence has occurred between the parties unless the court finds
20 that the conditions of (g)(1) - (3) of this section are met.

21 (g) A mediator who receives a referral or order from a court to conduct
22 mediation under (a) of this section shall evaluate whether domestic violence has
23 occurred between the parties. A mediator may not engage in mediation when it
24 appears to the mediator, or when either party asserts, that domestic violence has
25 occurred unless

26 (1) mediation is requested by the victim of the alleged domestic
27 violence;

28 (2) mediation is provided by a mediator who is trained in domestic
29 violence in a manner that protects the safety of the victim and any family member,
30 taking into account the results of an assessment of the potential danger posed by the
31 perpetrator and the risk of harm to the victim; and

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

3 * **Sec. 51.** AS 25.24.140(b) is amended to read:

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

6 (1) providing for the freedom of each spouse from the control of the
7 other spouse;

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

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

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

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

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

20 * **Sec. 52.** AS 25.24.140(c) is amended to read:

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

25 * **Sec. 53.** AS 25.24.140 is amended by adding new subsections to read:

26 (d) The court may not order or refer parties to mediation under (c) of this
27 section if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in effect.
28 The court may not order or refer parties to mediation if a party objects on the grounds
29 that domestic violence has occurred between the parties unless the court finds that the
30 conditions of (e)(1) - (3) of this section are met.

31 (e) A mediator who receives a referral or order from a court to conduct

1 mediation under (c) of this section shall evaluate whether domestic violence has
2 occurred between the parties. A mediator may not engage in mediation when it
3 appears to the mediator, or when either party asserts, that domestic violence has
4 occurred unless

5 (1) mediation is requested by the victim of the alleged domestic
6 violence;

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

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

13 * **Sec. 54.** AS 25.24.150(c) is amended to read:

14 (c) The court shall determine custody in accordance with the best interests of
15 the child under AS 25.20.060 - 25.20.130. In determining the best interests of the
16 child the court shall consider

17 (1) **presumptions under AS 25.20.061;**

18 (2) the physical, emotional, mental, religious, and social needs of the
19 child;

20 (3) [(2)] the capability and desire of each parent to meet these needs;
21 (4) [(3)] the child's preference if the child is of sufficient age and
22 capacity to form a preference;

23 (5) [(4)] the love and affection existing between the child and each
24 parent;

25 (6) [(5)] the length of time the child has lived in a stable, satisfactory
26 environment and the desirability of maintaining continuity;

27 (7) [(6)] the desire and ability of each parent to allow an open and
28 loving frequent relationship between the child and the other parent;

29 (8) [(7)] any evidence of domestic violence, child abuse, or child
30 neglect in the proposed custodial household or a history of violence between the
31 parents;

1 (9) [(8)] evidence that substance abuse by either parent or other
2 member of the household directly affects the emotional or physical well-being of the
3 child;

4 (10) [(9)] other factors that the court considers pertinent.

5 * **Sec. 55.** AS 25.24.210(e) is amended to read:

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

13 (1) the respective occupations of the petitioners;

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

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

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

20 (5) whether the wife is pregnant;

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

22 (7) whether **any of the following** [A DOMESTIC VIOLENCE
23 COMPLAINT] has been filed during the marriage **regarding** [BY] a **family** member:

24 **(A) a criminal charge of a crime involving domestic**
25 **violence;**

26 **(B) a petition or request for**

27 **(i) a protective order under AS 18.66.100 - 18.66.180;**

28 **or**

29 **(ii) injunctive relief under former AS 25.35.010 or**
30 **25.35.020; or**

31 **(C) a protective order issued in another state and filed with**

1 **the court in this state under AS 18.66.140** [OF THE HOUSEHOLD];

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

4 (9) other facts and circumstances that the petitioners believe should be
5 considered;

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

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

9 * **Sec. 56.** AS 25.24.220(h) is amended to read:

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

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

13 (2) **there is evidence of** [A] domestic violence [COMPLAINT] **during**
14 **the marriage or if any of the following** has been filed during the marriage
15 **regarding** [BY] a **family** member;

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

18 **(B) a petition or request for**

19 **(i) a protective order under AS 18.66.100 - 18.66.180;**

20 **or**

21 **(ii) injunctive relief under former AS 25.35.010 or**
22 **25.35.020; or**

23 **(C) a protective order issued in another state and filed with**
24 **the court in this state under AS 18.66.140** [OF THE FAMILY OR THERE
25 IS EVIDENCE OF DOMESTIC VIOLENCE DURING THE MARRIAGE];

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

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

28 * **Sec. 57.** AS 25 is amended by adding a new chapter to read:

29 CHAPTER 90. GENERAL PROVISIONS.

30 Sec. 25.90.010. DEFINITIONS. In this title, "domestic violence" and "crime
31 involving domestic violence" have the meaning given in AS 18.66.990.

1 * **Sec. 58.** AS 33.16.120 is amended by adding a new subsection to read:

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

13 * **Sec. 59.** AS 33.16 is amended by adding a new section to read:

14 Sec. 33.16.155. **CONDITIONS OF PAROLE IN DOMESTIC VIOLENCE**
15 **CASES.** (a) In addition to other conditions of parole imposed under AS 33.16.150,
16 the board may impose as a condition of discretionary or mandatory parole for a
17 prisoner serving a term for a crime involving domestic violence

18 (1) any of the terms of protective orders under AS 18.66.100(c)(1) -
19 (7);

20 (2) a requirement that, at the prisoner's expense, the prisoner participate
21 in and complete, to the satisfaction of the board, a program for the rehabilitation of
22 perpetrators of domestic violence that meets the standards set by the department under
23 AS 44.28.020(b); and

24 (3) any other condition necessary to rehabilitate the prisoner.

25 (b) The board shall establish procedures

26 (1) for the exchange of information concerning the parolee with the
27 victim;

28 (2) for responding to reports of nonattendance or noncompliance by the
29 parolee with conditions imposed under this section.

30 * **Sec. 60.** AS 33.16.220(a) is amended to read:

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

1 (1) engages in conduct in violation of AS 33.16.150(a) or (b) or
2 AS 33.16.155(a); or

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

5 * **Sec. 61.** AS 33.16.220(c) is amended to read:

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

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

10 (2) the seriousness of the alleged violation;

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

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

13 and

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

17 * **Sec. 62.** AS 33.16.900 is amended by adding a new paragraph to read:

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

20 * **Sec. 63.** AS 33.20.080(b) is amended to read:

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

26 * **Sec. 64.** AS 33.20.080(d) is amended by adding a new paragraph to read:

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

29 * **Sec. 65.** AS 33.30.013(b) is amended to read:

30 (b) The commissioner is required to give notice of a change in the status of
31 an offender under this section only if the victim has requested the change, except that

1 the commissioner is required to give notice, mailed to the last known address of
2 the victim, in every case of a crime involving domestic violence.

3 * **Sec. 66.** AS 33.30.101 is amended by adding a new subsection to read:

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

7 * **Sec. 67.** AS 33.30.111(f) is amended to read:

8 (f) Except as provided in (g) of this section, if [IF] the commissioner
9 considers a prisoner convicted of a crime against a person or arson in the first degree
10 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the
11 commissioner shall send notice of intent to consider the prisoner for a prerelease
12 furlough to the victim. The victim may comment in writing on the commissioner's
13 intent to release the prisoner on a prerelease furlough status. The commissioner shall
14 consider the victim's comments before making a final decision to release a prisoner
15 on a prerelease furlough status. The commissioner shall make a reasonable effort to
16 notify the victim of an intent to release the prisoner on a prerelease furlough. The
17 notice must contain the expected date of the prisoner's release, geographic area in
18 which the prisoner will reside, and other pertinent information concerning the
19 prisoner's release that may affect the victim. A person may not bring a civil action
20 for damages for a failure to comply with the provisions of this subsection.

21 * **Sec. 68.** AS 33.30.111 is amended by adding a new subsection to read:

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

1 failure to comply with the provisions of this subsection.

2 * **Sec. 69.** AS 33.30.901 is amended to read:

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

5 * **Sec. 70.** AS 43.23.065(b) is amended to read:

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

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

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

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

13 (4) court ordered fines;

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

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

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

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

21 **(7) a program for the rehabilitation of perpetrators of domestic**
22 **violence ordered under AS 12.55.101, AS 18.66.100(c)(16), AS 25.20.062(b)(3), or**
23 **AS 33.16.155(a)(2).**

24 * **Sec. 71.** AS 44.28.020 is amended by adding a new subsection to read:

25 (b) The department shall, with the approval of the Council on Domestic
26 Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation
27 programs for perpetrators of domestic violence as defined in AS 18.66.990. For
28 purposes of AS 12.55.101, AS 18.66.100(c), AS 25.20.062(b), and AS 33.16.155(a),
29 the department shall determine whether a program meets the standards.

30 * **Sec. 72.** AS 47.17.020(a) is amended to read:

31 (a) The following persons who, in the performance of their occupational duties,

1 have reasonable cause to suspect that a child has suffered harm as a result of child
2 abuse or neglect shall immediately report the harm to the nearest office of the
3 department:

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

16 * **Sec. 73.** AS 47.17 is amended by adding a new section to read:

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

22 (1) inquiry concerning the criminal records of the parents or of the
23 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the
24 child; and

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

27 (b) If the department determines in an investigation of abuse or neglect of a
28 child that the child is in danger because of domestic violence or that the child needs
29 protection as a result of the presence of domestic violence in the family, the
30 department shall take appropriate steps for the protection of the child.

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. 74.** 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. 75.** Rule 100(a), Alaska Rules of Civil Procedure, is amended to read:

17 (a) Application. **Except as provided in this paragraph, at** [AT] any time
18 after a complaint is filed, a party may file a motion with the court requesting
19 mediation for the purpose of achieving a mutually agreeable settlement. The motion
20 must address how the mediation should be conducted as specified in paragraph (b),
21 including the names of any acceptable mediators. **Except in a case where domestic**
22 **violence has occurred between the parties, the** [THE] court may order mediation in
23 response to such a motion, or on its own motion, whenever it determines that
24 mediation may result in an equitable settlement. [IN MAKING THIS
25 DETERMINATION, THE COURT MAY CONSIDER WHETHER THERE IS A
26 HISTORY OF DOMESTIC VIOLENCE BETWEEN THE PARTIES WHICH COULD
27 BE EXPECTED TO AFFECT THE FAIRNESS OF THE MEDIATION PROCESS OR
28 THE PHYSICAL SAFETY OF THE DOMESTIC VIOLENCE VICTIM.] Mediation
29 may not be ordered **if domestic violence has occurred between the parties, or** in a
30 case 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. 76.** 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. 77.** AS 11.56.740 is repealed.

26 * **Sec. 78.** 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. 79.** 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. 80.** 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. 78 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. 81.** TRANSITION: REGULATIONS. Notwithstanding secs. 85 and 86 of this Act,
8 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. 82.** The provisions of AS 18.66.150(d) and 18.66.160(c), enacted by sec. 32 of this
13 Act, have the effect of changing Alaska Rules of Administration 9(b)(11), 9(c)(3), and 9(e)(6)
14 by eliminating filing fees and service of process fees in domestic violence actions for
15 protective orders.

16 * **Sec. 83.** Sections 74, 75, 76, and 82 of this Act take effect July 1, 1996 only if secs. 74,
17 75, 76, and 82 of this Act receive the two-thirds majority vote of each house required by art.
18 IV, sec. 15, Constitution of the State of Alaska.

19 * **Sec. 84.** Section 81 of this Act takes effect immediately under AS 01.10.070(c).

20 * **Sec. 85.** Except as provided in secs. 84 and 86 of this Act, this Act takes effect
21 July 1, 1996.

22 * **Sec. 86.** Section 77 of this Act takes effect 90 days after the effective date of sec. 78 of
23 this Act.