

CS FOR SENATE BILL NO. 237(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/7/98

Referred: Judiciary, Finance

Sponsor(s): SENATE LABOR AND COMMERCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to domestic violence and sexual assault; amending Rule 404,
2 Alaska Rules of Evidence; and providing for an effective date."

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

4 * **Section 1.** AS 12.55.101(a) is amended to read:

5 (a) Before granting probation to a person convicted of a crime involving
6 domestic violence, the court shall consider the safety and protection of the victim and
7 any member of the victim's family. If a person convicted of a crime involving
8 domestic violence is placed on probation, the court may order the conditions
9 authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11), and may

10 (1) require the defendant to participate in and complete to the
11 satisfaction of the court one or more programs for the rehabilitation of perpetrators of
12 domestic violence that meet the standards set **by, and that are approved** by, the
13 Department of Corrections under AS 44.28.020(b) [,] if the program is available in the
14 community where the defendant resides; **the court may not order a defendant to**

1 participate in or complete a program for the rehabilitation of perpetrators of
 2 domestic violence that does not meet the standards set, and that is not approved,
 3 by the Department of Corrections under AS 44.28.020(b);

4 (2) require the defendant to refrain from the consumption of alcohol;
 5 and

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

8 * **Sec. 2.** AS 18.66.100(c)(15) is amended to read:

9 (15) order the respondent, at the respondent's expense, to participate in
 10 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
 11 standards set **by, and that is approved** by, the Department of Corrections under
 12 AS 44.28.020(b), or (B) treatment for the abuse of alcohol or controlled substances,
 13 or **(A) and (B)** [BOTH]; **a protective order under this section may not require a**
 14 **respondent to participate in a program for the rehabilitation of perpetrators of**
 15 **domestic violence unless the program meets the standards set by, and that is**
 16 **approved by, the Department of Corrections under AS 44.28.020(b);**

17 * **Sec. 3.** AS 33.16.150(f) is amended to read:

18 (f) In addition to other conditions of parole imposed under this section, the
 19 board may impose as a condition of special medical, discretionary, or mandatory parole
 20 for a prisoner serving a term for a crime involving domestic violence (1) any of the
 21 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at
 22 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of
 23 the board, a program for the rehabilitation of perpetrators of domestic violence that
 24 meets the standards set **by, and that is approved** by, the department under
 25 AS 44.28.020(b); and (3) any other condition necessary to rehabilitate the prisoner.
 26 The board shall establish procedures for the exchange of information concerning the
 27 parolee with the victim and for responding to reports of nonattendance or
 28 noncompliance by the parolee with conditions imposed under this subsection. **The**
 29 **board may not under this subsection require a prisoner to participate in and**
 30 **complete a program for the rehabilitation of perpetrators of domestic violence**
 31 **unless the program meets the standards set by, and is approved by, the**

1 **department under AS 44.28.020(b).**

2 * **Sec. 4.** AS 44.28.020(b) is amended to read:

3 (b) The department shall, with the approval of the Council on Domestic
4 Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation
5 programs for perpetrators of domestic violence as defined in AS 18.66.990. For
6 purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall
7 **approve a program if the department determines that the** [DETERMINE
8 WHETHER A] program meets the standards.

9 * **Sec. 5.** AS 44.66.010(a)(11) is amended to read:

10 (11) Council on Domestic Violence and Sexual Assault (AS 18.66.010)
11 -- June 30, **2002** [1998];

12 * **Sec. 6.** Rule 404(b)(3), Alaska Rules of Evidence, is amended to read:

13 (3) In a prosecution for a crime of sexual assault in any degree,
14 **evidence of other sexual assaults or attempted sexual assaults by the defendant**
15 **against the same or another person is admissible if the defendant relies on a**
16 **defense of consent. In a prosecution for a crime of** [OR] attempt to commit sexual
17 assault in any degree, evidence of other sexual assaults or attempted sexual assaults
18 by the defendant against the same or another person is admissible [IF THE
19 DEFENDANT RELIES ON A DEFENSE OF CONSENT].

20 * **Sec. 7.** Rule 404(b)(4), Alaska Rules of Evidence, is amended to read:

21 (4) In a prosecution for a crime involving domestic violence or of
22 interfering with a report of a crime involving domestic violence, evidence of other **acts**
23 **of** [CRIMES INVOLVING] domestic violence by the defendant against the same or
24 another person or of interfering with a report of a crime involving domestic violence
25 is admissible. In this paragraph, "domestic violence" and "crime involving domestic
26 violence" have the meanings given in AS 18.66.990.

27 * **Sec. 8.** APPLICABILITY OF SECTIONS 6 AND 7. Sections 6 and 7 of this Act apply
28 to a criminal or juvenile proceeding held on or after the effective date of secs. 6 and 7,
29 regardless of whether the criminal offense or delinquent act occurred before, on, or after the
30 effective date of secs. 6 and 7.

31 * **Sec. 9.** Sections 1 - 3 of this Act take effect January 1, 1999.

1 * **Sec. 10.** Except for secs. 1 - 3 of this Act, this Act takes effect immediately under
2 AS 01.10.070(c).