

SENATE BILL NO. 106

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SECOND LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 2/20/01

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the rights of crime victims, the crime of violating a protective**
2 **injunction, mitigating factors in sentencing for an offense, and the return of certain**
3 **seized property to victims; clarifying that a violation of certain protective orders is**
4 **contempt of the authority of the court; expanding the scope of the prohibition of**
5 **compromise based on civil remedy of misdemeanor crimes involving domestic violence;**
6 **providing for protective relief for victims of stalking that is not domestic violence and**
7 **for the crime of violating an order for that relief; providing for continuing education**
8 **regarding domestic violence for certain persons appointed by the court; making certain**
9 **conforming amendments; amending Rules 65.1 and 100(a), Alaska Rules of Civil**
10 **Procedure; amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil**
11 **Procedure; and amending Rule 9, Alaska Rules of Administration."**

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

1 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
2 to read:

3 INTENT AND PURPOSE. The intent and purpose of this Act are to

- 4 (1) advance public safety by facilitating the prosecution of criminals;
- 5 (2) further implement art. I, sec. 24, of the Alaska Constitution, to protect the
6 rights of crime victims;
- 7 (3) protect the public by expanding the scope of the prohibition of
8 compromise of certain crimes by certain domestic violence victims because of a civil remedy;
- 9 (4) protect the public and victims of stalking by a person who is not a member
10 of the victim's household by establishing a streamlined process to obtain protective relief; and
- 11 (5) protect the public by clarifying that violation of certain protective orders is
12 contempt of court.

13 * **Sec. 2.** AS 09.50.010 is amended to read:

14 **Sec. 09.50.010. Acts or omissions constituting contempt.** The following
15 acts or omissions with respect to a court of justice or court proceedings are contempts
16 of the authority of the court:

- 17 (1) disorderly, contemptuous, or insolent behavior toward the judge
18 while holding the court, tending to impair its authority or to interrupt the course of a
19 trial or other judicial proceeding;
- 20 (2) a breach of the peace, boisterous conduct, or violent disturbance,
21 tending to interrupt the course of a trial or other judicial proceeding;
- 22 (3) misbehavior in office, or other wilful neglect or violation of duty
23 by an attorney, clerk, peace officer, or other person appointed or elected to perform a
24 judicial or ministerial service;
- 25 (4) deceit or abuse of the process or proceedings of the court by a party
26 to an action or proceeding;
- 27 (5) disobedience of a lawful judgment, order, or process of the court,
28 **including violating a protective order issued under AS 18.66.100 - 18.66.180 or**
29 **18.66.190 - 18.66.198;**
- 30 (6) falsely pretending to act under authority to an order or process of
31 the court;

1 (7) rescuing a person or property in the custody of an officer by virtue
2 of an order or process of the court;

3 (8) unlawfully detaining a witness or party to an action or proceeding
4 while going to, remaining at, or returning from the court where the witness or party is
5 for trial;

6 (9) any other unlawful interference with the process or proceedings of
7 the court;

8 (10) disobedience of a subpoena duly served, or refusing to be sworn
9 or answer as a witness;

10 (11) when summoned as a juror in a court, neglecting to attend or
11 serve, or improperly conversing with a party to an action or proceeding to be tried at
12 the court or with another person in relation to the merits of the action, or receiving a
13 communication from a party or other person in respect to it without immediately
14 disclosing it to the court;

15 (12) disobedience by an inferior court, judge, magistrate, referee,
16 master, or officer of the lawful judgment, order, or process of a higher court, or
17 proceeding in an action or proceeding contrary to law after the action or proceeding is
18 removed from the jurisdiction of that inferior court, judge, magistrate, or officer;

19 (13) failure, when acting as a custodian appointed by the court for a
20 released person under AS 12.30, to report immediately that the person released has
21 violated a condition of release.

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

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

25 (1) the actions constituting the offense are in violation of an order
26 issued or filed under AS 18.66.100 - 18.66.180 or 18.66.190 - 18.66.198, or issued
27 under former AS 25.35.010(b) or 25.35.020;

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

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

31 (4) at any time during the course of conduct constituting the offense

1 the defendant possessed a deadly weapon;

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

6 (6) the defendant has been previously convicted of a crime, or an
7 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
8 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of
9 this or another jurisdiction with elements similar to a crime, or an attempt or
10 solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 -
11 11.41.460, AS 11.56.810, or AS 11.61.120, involving the same victim as the present
12 offense.

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

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

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

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

21 (3) enter or remain upon premises or in a propelled vehicle in violation
22 of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 **or**
23 **18.66.190 - 18.66.198** or issued under former AS 25.35.010(b) or 25.35.020.

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

25 (a) A person commits the crime of violating a protective order **or a protective**
26 **injunction** if the person is

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

30 (2) **subject to a protective order containing a provision listed in**
31 **AS 18.66.190(c)(1) - (6) and knowingly commits or attempts to commit an act in**

1 **violation of that provision; or**

2 **(3) subject to a protective injunction issued under AS 47.17.069**
 3 **and knowingly commits or attempts to commit an act in violation of the**
 4 **injunction.**

5 * **Sec. 6.** AS 11.56.740(c) is amended to read:

6 (c) In this section, "protective order" means an order issued or filed under
 7 AS 18.66.100 - 18.66.180 **or 18.66.190 - 18.66.198.**

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 18.66.190 - 18.66.198** or issued
 12 under former AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the
 13 person a defensive weapon or a deadly weapon, other than an ordinary pocketknife;

14 * **Sec. 8.** AS 12.25.030(b) is amended 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
 21 the crime is a felony or a misdemeanor; in this subparagraph, "crime involving
 22 domestic violence" has the meaning given in AS 18.66.990;

23 (B) committed the crime of violating a protective order **or a**
 24 **protective injunction** in violation of AS 11.56.740; or

25 (C) violated a condition of release imposed under
 26 AS 12.30.025 or 12.30.027;

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

29 (A) committed a crime under or violated conditions imposed as
 30 part of the person's release before trial on misdemeanor charges brought under
 31 AS 11.41.270;

1 (B) violated AS 04.16.050 or an ordinance with similar
 2 elements; however, unless there is a lawful reason for further detention, a
 3 person who is under the age of 18 and who has been arrested for violating
 4 AS 04.16.050 or an ordinance with similar elements shall be cited for the
 5 offense and released to the person's parent, guardian, or legal custodian; or

6 (C) violated conditions imposed as part of the person's release
 7 before trial on felony charges brought under AS 11.41.410 - 11.41.458.

8 * **Sec. 9.** AS 12.36 is amended by adding a new section to read:

9 **Sec. 12.36.070. Property seized from pawnbroker or secondhand dealer.**

10 (a) Property that a law enforcement agency has obtained from a pawnbroker or
 11 secondhand dealer and that is possessed by a law enforcement agency in connection
 12 with an investigation of the wrongful taking of the property shall be disposed of as
 13 provided in this section.

14 (b) If the pawnbroker or secondhand dealer waives the right to notice of the
 15 disposition of the property, the property may be returned to the victim of the offense
 16 as provided in AS 12.36.010 - 12.36.060 and 12.36.090.

17 (c) If the pawnbroker or secondhand dealer requests notice of the disposition
 18 of the property, the law enforcement agency shall provide to the pawnbroker or
 19 secondhand dealer and to the victim of the offense notice of intent to dispose of the
 20 property, and the names and addresses of the persons notified.

21 (d) A victim who receives notice under (c) of this section may file in the
 22 district court a petition for return of the property on a form provided by the court. The
 23 petition must be supported by an affidavit setting out the basis for the claim to
 24 ownership of the property. The petition must be filed within 30 days after receipt of
 25 the notice given under (c) of this section. The victim must submit proof that a copy of
 26 the petition and affidavit has been served on the pawnbroker or secondhand dealer and
 27 on the law enforcement agency that possesses the property. If a petition is not filed in
 28 accordance with this subsection, the property may be returned to the pawnbroker or
 29 secondhand dealer.

30 (e) Within 30 days after the filing of a petition under (d) of this section, the
 31 pawnbroker or secondhand dealer may file a response to the petition and a supporting

1 affidavit rebutting the victim's claim of ownership, and must include with the response
2 a copy of the records of the transaction involving the property required under
3 AS 08.76. The pawnbroker or secondhand dealer must submit proof that a copy of the
4 response, affidavit, and records has been served on the victim and on the law
5 enforcement agency that possesses the property. If a response is not filed in
6 accordance with this subsection, the property may be returned to the victim.

7 (f) In a proceeding under this section or another proceeding concerning
8 ownership of the property, if the victim claims ownership in accordance with (d) of
9 this section, the pawnbroker or secondhand dealer has the burden of proving by a
10 preponderance of the evidence that the victim is not the owner of the property. Good
11 faith purchase of the property by the pawnbroker or secondhand dealer from another
12 person is not relevant to ownership of the property. For purposes of this section,
13 "good faith purchase" means the purchase for money or other consideration without
14 knowledge that the property was wrongfully taken or that the victim claims ownership
15 in the property.

16 (g) The district court may decide ownership based on the documents filed
17 under this section unless a party requests a hearing or the court on its own motion
18 finds that a hearing is necessary to resolve the matter. If a hearing is held, the district
19 court may treat the petition, response, and affidavits as documents in support of
20 pleadings and the matter may be heard as a small claim under AS 22.15.040. If either
21 party claims that the value of the property exceeds the jurisdictional amount for a
22 small claim, the parties may proceed in the appropriate court under the applicable
23 rules of court.

24 (h) Filing fees may not be charged for filing a petition or a response to a
25 petition under this section.

26 (i) A person may not bring a civil action against the court, a law enforcement
27 agency, the state, or a subdivision of the state, or their officers, agents, or employees
28 concerning property disposed of under this section if the court, law enforcement
29 agency, state, subdivision of the state, or their officers, agents, or employees have in
30 good faith substantially complied with the provisions of this section.

31 (j) In this section, "pawnbroker or secondhand dealer" means a person

1 engaged in the business of buying and selling secondhand articles, or lending money
2 on secondhand articles, except a bank or other financial institution.

3 * **Sec. 10.** AS 12.45.120 is amended to read:

4 **Sec. 12.45.120. Authority to compromise misdemeanors for which victim**
5 **has civil action.** If a defendant is held to answer on a charge of misdemeanor for
6 which the person injured by the act constituting the crime has a remedy by a civil
7 action, the crime may be compromised except when it [WAS COMMITTED]

8 (1) **was committed** by or upon a peace officer, judge, or magistrate
9 while in the execution of the duties of that office;

10 (2) **was committed** riotously;

11 (3) **was committed** with an intent to commit a felony;

12 (4) **was committed** larcenously;

13 (5) **is a crime involving domestic violence** [AGAINST

14 (A) A SPOUSE OR A FORMER SPOUSE OF THE
15 DEFENDANT;

16 (B) A PARENT, GRANDPARENT, CHILD, OR
17 GRANDCHILD OF THE DEFENDANT;

18 (C) A MEMBER OF THE SOCIAL UNIT COMPRISED OF
19 THOSE LIVING TOGETHER IN THE SAME DWELLING AS THE
20 DEFENDANT; OR

21 (D) A PERSON WHO IS NOT A SPOUSE OR FORMER
22 SPOUSE OF THE DEFENDANT BUT WHO PREVIOUSLY LIVED IN A
23 SPOUSAL RELATIONSHIP WITH THE DEFENDANT].

24 * **Sec. 11.** AS 12.45.120 is amended by adding a new subsection to read:

25 (b) In this section, "crime involving domestic violence" has the meaning given
26 in AS 18.66.990.

27 * **Sec. 12.** AS 12.55.155(d) is amended by adding a new paragraph to read:

28 (18) in a conviction for an offense, the defendant reduced the impact of
29 the offense on the victim by entering a plea of guilty or no contest within the 30 days
30 after being arraigned on the charge.

31 * **Sec. 13.** AS 18.65.530(a) is amended to read:

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

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

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

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

10 * **Sec. 14.** AS 18.65.540(a) is amended to read:

11 (a) The Department of Public Safety shall maintain a central registry of
 12 protective orders issued by or filed with a court of this state under AS 18.66.100 -
 13 18.66.180 **or 18.66.190 - 18.66.198**. The registry must include for each protective
 14 order the names of the petitioner and respondent, their dates of birth, **if known**, and
 15 the conditions and duration of the order. The registry shall retain a record of the
 16 protective order after it has expired.

17 * **Sec. 15.** AS 18.65.540(b) is amended to read:

18 (b) A peace officer receiving a protective order from a court under
 19 AS 18.66.100 - 18.66.180 **or 18.66.190 - 18.66.198**, a modified order issued under
 20 AS 18.66.120 **or 18.66.190**, or an order dismissing a protective order, must take
 21 reasonable steps to ensure that the order, modified order, or dismissal is entered into
 22 the central registry within 24 hours after being received.

23 * **Sec. 16.** AS 18.66.100(c)(14) is amended to read:

24 (14) require the respondent to pay costs and fees incurred by the
 25 petitioner in bringing the action under **AS 18.66.100 - 18.66.180** [THIS CHAPTER];

26 * **Sec. 17.** AS 18.66.120(a) is amended to read:

27 (a) Either the petitioner or the respondent may request modification of a
 28 protective order **issued under AS 18.66.100 - 18.66.180**. If a request is made for
 29 modification of

30 (1) an ex parte protective order under AS 18.66.110(a), the court shall
 31 schedule a hearing on three days' notice or on shorter notice as the court may

1 prescribe; the court shall hear and rule on the request in an expeditious manner; or

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

6 * **Sec. 18.** AS 18.66.130(b) is amended to read:

7 (b) A court may not grant protective orders against the petitioner and the
8 respondent in the same action under **AS 18.66.100 - 18.66.180** [THIS CHAPTER].

9 * **Sec. 19.** AS 18.66.130(d) is amended to read:

10 (d) In addition to other required information contained in a protective order
11 **issued under AS 18.66.100 - 18.66.180**, the order must include in bold face type the
12 following statements:

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

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

20 * **Sec. 20.** AS 18.66.130(e) is amended to read:

21 (e) A protective order issued under **AS 18.66.100 - 18.66.180** [THIS
22 CHAPTER] is in addition to and not in place of any other civil or criminal remedy. A
23 petitioner is not barred from seeking an order under AS 18.66.100 - 18.66.180 because
24 of the existence of another civil action between the petitioner and respondent.

25 * **Sec. 21.** AS 18.66.140(a) is amended to read:

26 (a) A certified copy of an unexpired **domestic violence** protective order issued
27 in another jurisdiction may be filed with the clerk of court in any judicial district in
28 this state.

29 * **Sec. 22.** AS 18.66.150(a) is amended to read:

30 (a) The Alaska Court System, after consulting with the Council on Domestic
31 Violence and Sexual Assault and other interested persons and organizations, shall

1 prepare forms for petitions, protective orders, and instructions for their use by a person
 2 seeking a protective order under AS 18.66.100 - 18.66.180 [THIS CHAPTER]. The
 3 forms must conform to the Alaska Rules of Civil Procedure, except that information
 4 on the forms may be filled in by legible handwriting.

5 * **Sec. 23.** AS 18.66.150(b) is amended to read:

6 (b) In addition to other information required, a petition for a protective order
 7 under AS 18.66.100 - 18.66.180 must include a statement of pending civil actions or
 8 domestic violence criminal actions involving either the petitioner or the respondent.
 9 While a protective order under AS 18.66.100 - 18.66.180 is in effect or a petition for
 10 protective order under AS 18.66.100 - 18.66.180 is pending, both the petitioner and
 11 respondent have a continuing duty to inform the court of pending civil actions or
 12 domestic violence criminal actions involving either the petitioner or the respondent.

13 * **Sec. 24.** AS 18.66.150(d) is amended to read:

14 (d) Filing fees may not be charged in any action seeking only the relief
 15 provided in AS 18.66.100 - 18.66.180 [THIS CHAPTER].

16 * **Sec. 25.** AS 18.66.160 is amended to read:

17 **Sec. 18.66.160. Service of process.** (a) Process issued under AS 18.66.100 -
 18 18.66.180 [THIS CHAPTER] shall be promptly served and executed. If process is to
 19 be served upon a person believed to be present or residing in a municipality, as
 20 defined in AS 29.71.800, or in an unincorporated community, process shall be served
 21 by a peace officer of that municipality or unincorporated community who has
 22 jurisdiction within the area of service. If a peace officer of the municipality or
 23 unincorporated community who has jurisdiction is not available, a superior court,
 24 district court, or magistrate may designate any other peace officer to serve and execute
 25 process. A state peace officer shall serve process in any area that is not within the
 26 jurisdiction of a peace officer of a municipality or unincorporated community. A
 27 peace officer shall use every reasonable means to serve process issued under
 28 AS 18.66.100 - 18.66.180 [THIS CHAPTER].

29 (b) Service of process under (a) of this section does not preclude a petitioner
 30 from using any other available means to serve process issued under AS 18.66.100 -
 31 18.66.180 [THIS CHAPTER].

1 (c) Fees for service of process may not be charged in a proceeding seeking
2 only the relief provided in AS 18.66.100 - 18.66.180 [THIS CHAPTER].

3 * **Sec. 26.** AS 18.66.170 is amended to read:

4 **Sec. 18.66.170. Notification of law enforcement agencies.** When a court
5 issues or accepts for filing a protective order under AS 18.66.100 -18.66.180 [THIS
6 CHAPTER], it shall send a copy of the order to the appropriate local law enforcement
7 agency. Each law enforcement agency shall establish procedures to inform peace
8 officers of protective orders. Peace officers shall use every reasonable means to
9 enforce a protective order issued or filed under AS 18.66.100 - 18.66.180 [THIS
10 CHAPTER].

11 * **Sec. 27.** AS 18.66.180 is amended to read:

12 **Sec. 18.66.180. Civil liability.** A person may not bring a civil action for
13 damages against the state, its officers, agents, or employees, or a law enforcement
14 agency, its officers, agents, or employees for any failure to comply with the provisions
15 of AS 18.66.100 - 18.66.180 [THIS CHAPTER].

16 * **Sec. 28.** AS 18.66 is amended by adding new sections to read:

17 **Article 2A. Non-domestic Violence Stalking Protective Orders.**

18 **Sec. 18.66.190. Protective order for other stalking.** (a) A person who is or
19 has been a victim of stalking by a person who is not a household member may file a
20 petition in the district or superior court for a protective order for non-domestic
21 violence stalking against the other person. A parent, guardian, or other representative
22 appointed by the court under this section may file a petition for a protective order for
23 non-domestic violence stalking on behalf of a minor.

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

31 (1) (c)(1) of this section are effective until further order of the court;

1 (2) (c)(2) - (10) of this section are effective for six months unless
2 earlier dissolved by court order.

3 (c) A protective order for non-domestic violence stalking issued under this
4 section may

5 (1) prohibit the respondent from threatening to commit or committing
6 stalking;

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

9 (3) direct the respondent to stay away from the residence, school, or
10 place of employment of the petitioner or any specified place frequented by the
11 petitioner;

12 (4) prohibit the respondent from entering a propelled vehicle in the
13 possession of or occupied by the petitioner;

14 (5) prohibit the respondent from using or possessing a deadly weapon
15 if the court finds that the respondent was in actual possession of or used a weapon
16 while stalking the petitioner;

17 (6) direct the respondent to surrender any firearm owned or possessed
18 by the respondent if the court finds that the respondent was in the actual possession of
19 or used a firearm while stalking the petitioner;

20 (7) prohibit the respondent from using controlled substances;

21 (8) require the respondent to reimburse the petitioner or other person
22 for expenses associated with the stalking, including medical expenses and counseling;

23 (9) require the respondent to pay costs and fees incurred by the
24 petitioner in bringing the action under this section;

25 (10) order other relief the court determines necessary to protect the
26 petitioner.

27 (d) A person who is a victim of stalking by another person who is not a
28 household member may file a petition under (a) of this section and request an ex parte
29 protective order. If the court finds that the petition establishes probable cause to
30 believe that the stalking has occurred and that it is necessary to protect the petitioner
31 from that stalking, and if the petitioner has certified to the court in writing the efforts,

1 if any, that have been made to provide notice to the respondent, the court shall ex parte
 2 and without notice to the respondent issue a protective order for non-domestic
 3 violence stalking. An ex parte protective order for non-domestic violence stalking
 4 may grant the protection provided by (c)(1) - (4) and (10) of this section. An ex parte
 5 protective order expires 20 days after it is issued unless dissolved earlier by the court
 6 at the request of either the petitioner or the respondent and after notice and, if
 7 requested, a hearing.

8 (e) Either the petitioner or the respondent may request modification of a
 9 protective order issued under this section. If a request is made for modification of

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

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

17 (f) If a court issues a protective order or a modification of a protective order
 18 for non-domestic violence stalking, it shall make reasonable efforts to ensure that the
 19 order is understood by the petitioner and by the respondent, if present at any hearing,
 20 and have the order delivered to the appropriate local law enforcement agency for
 21 expedited service and for entry into the central registry of protective orders under
 22 AS 18.65.540.

23 (g) In addition to other required information contained in a protective order,
 24 the order must include in bold face type the statement "Violation of this order may be
 25 a misdemeanor, punishable by up to one year of incarceration and up to a \$5,000 fine."

26 (h) A protective order issued under this section is in addition to and not in
 27 place of any other civil or criminal remedy. A petitioner is not barred from seeking an
 28 order under this section because of the existence of another civil action between the
 29 petitioner and respondent.

30 **Sec. 18.66.192. Forms for petitions and orders; fees.** (a) The Alaska Court
 31 System, after consulting with other interested persons and organizations, shall prepare

1 forms for petitions, protective orders, and instructions for their use by a person seeking
2 a protective order under AS 18.66.190. The forms must conform to the Alaska Rules
3 of Civil Procedure, except that information on the forms may be filled in by legible
4 handwriting.

5 (b) The office of the clerk of each superior and district court shall make
6 available to the public under this section the forms a person seeking a protective order
7 under AS 18.66.190 - 18.66.198 may need and instructions for the use of the forms.
8 The clerk shall provide assistance in completing the forms and filing the forms.

9 (c) Filing fees may not be charged in any action seeking only the relief
10 provided in AS 18.66.190 - 18.66.198.

11 **Sec. 18.66.194. Service of process.** (a) Process issued under AS 18.66.190 -
12 18.66.198 shall be promptly served and executed. If process is to be served upon a
13 person believed to be present or residing in a municipality, as defined in
14 AS 29.71.800, or in an unincorporated community, process shall be served by a peace
15 officer of that municipality or unincorporated community who has jurisdiction within
16 the area of service. If a peace officer of the municipality or unincorporated
17 community who has jurisdiction is not available, a superior court, district court, or
18 magistrate may designate any other peace officer to serve and execute process. A state
19 peace officer shall serve process in any area that is not within the jurisdiction of a
20 peace officer of a municipality or unincorporated community. A peace officer shall
21 use every reasonable means to serve process issued under AS 18.66.190 - 18.66.198.

22 (b) Service of process under (a) of this section does not preclude a petitioner
23 from using any other available means to serve process issued under AS 18.66.190 -
24 18.66.198.

25 (c) Fees for service of process may not be charged in a proceeding seeking
26 only the relief provided in AS 18.66.190 - 18.66.198.

27 **Sec. 18.66.196. Notification of law enforcement agencies.** When a court
28 issues a protective order under AS 18.66.190, it shall send a copy of the order to the
29 appropriate local law enforcement agency. Each law enforcement agency shall
30 establish procedures to inform peace officers of protective orders issued under
31 AS 18.66.190. Peace officers shall use every reasonable means to enforce a protective

1 order issued under AS 18.66.190.

2 **Sec. 18.66.198. Civil liability.** A person may not bring a civil action for
3 damages against the state, its officers, agents, or employees, or a law enforcement
4 agency, its officers, agents, or employees for any failure to comply with
5 AS 18.66.190 - 18.66.198.

6 * **Sec. 29.** AS 18.66.200(d) is amended to read:

7 (d) Notwithstanding (a) of this section,

8 (1) a minor may waive the privilege provided under (a) of this section
9 and testify or give consent for a victim counselor to testify if the court determines that
10 the minor is capable of knowingly waiving the privilege;

11 (2) a parent or legal guardian may not, on behalf of a minor, waive the
12 privilege provided under (a) of this section with respect to the minor's testimony or the
13 testimony of a victim counselor if

14 (A) the parent or legal guardian has been charged with a crime
15 against the minor;

16 (B) a protective order, protective injunction, or restraining
17 order has been entered against the parent or legal guardian on request of or on
18 behalf of the minor; or

19 (C) the parent or legal guardian otherwise has an interest
20 adverse to that of the minor with respect to the waiver of privilege.

21 * **Sec. 30.** AS 18.66.250(1) is amended to read:

22 (1) "confidential communication" means information exchanged
23 between a victim and a victim counselor in private or in the presence of a third party
24 who is necessary to facilitate communication or further the counseling process and
25 that is disclosed in the course of victim counseling resulting from a sexual assault,
26 [OR] domestic violence, or non-domestic violence stalking;

27 * **Sec. 31.** AS 18.66.250(3) is amended to read:

28 (3) "victim" means a person who consults a victim counselor for
29 assistance in overcoming adverse effects of a sexual assault, [OR] domestic violence,
30 or non-domestic violence stalking;

31 * **Sec. 32.** AS 18.66.250(4) is amended to read:

1 (4) "victim counseling" means support, assistance, advice, or treatment
 2 to alleviate the adverse effects of a sexual assault, [OR] domestic violence, or non-
 3 domestic violence stalking on the victim;

4 * **Sec. 33.** AS 18.66.250(5) is amended to read:

5 (5) "victim counseling center" means a private organization or a local
 6 government agency that

7 (A) has as one of its primary purposes the provision of direct
 8 services to victims for trauma resulting from a sexual assault, [OR] domestic
 9 violence, or non-domestic violence stalking;

10 (B) is not affiliated with a law enforcement agency or a
 11 prosecutor's office; and

12 (C) is not on contract with the state to provide services under
 13 AS 47;

14 * **Sec. 34.** AS 18.66.250(6) is amended to read:

15 (6) "victim counselor" means an employee or supervised volunteer of a
 16 victim counseling center that provides counseling to victims

17 (A) who has undergone a minimum of 40 hours of training in
 18 domestic violence, [OR] sexual assault, non-domestic violence stalking, crisis
 19 intervention, victim support, treatment and related areas; or

20 (B) whose duties include victim counseling.

21 * **Sec. 35.** AS 18.66.310(b) is amended to read:

22 (b) The administrative director of the Alaska Court System shall, in
 23 consultation with the Council on Domestic Violence and Sexual Assault, provide
 24 continuing education in domestic violence for judicial officers and court clerks who
 25 have contact with parties involved in domestic violence. Before a person may be
 26 appointed by the court as, or continue to serve as, a guardian ad litem, child
 27 custody investigator, or mediator, the person must have completed continuing
 28 education in domestic violence from a program sponsored by the Council on
 29 Domestic Violence and Sexual Assault.

30 * **Sec. 36.** AS 18.66.990(2) is amended to read:

31 (2) "crisis intervention and prevention program" means a community

1 program that provides information, education, counseling, and referral services to
 2 individuals experiencing personal crisis related to domestic violence, [OR] sexual
 3 assault, or non-domestic violence stalking, and to individuals in personal or
 4 professional transition, excluding correctional half-way houses, outpatient mental
 5 health programs, and drug or alcohol rehabilitation programs;

6 * **Sec. 37.** AS 18.66.990 is amended by adding new paragraphs to read:

7 (11) "non-domestic violence stalking" means stalking that is not
 8 domestic violence;

9 (12) "stalking" means a violation of AS 11.41.260 or 11.41.270.

10 * **Sec. 38.** AS 22.10.020(a) is amended to read:

11 (a) The superior court is the trial court of general jurisdiction, with original
 12 jurisdiction in all civil and criminal matters, including probate and guardianship of
 13 minors and incompetents. Except for a petition for a protective order under
 14 AS 18.66.100 - 18.66.180 or 18.66.190 - 18.66.198, an action that falls within the
 15 concurrent jurisdiction of the superior court and the district court may not be filed in
 16 the superior court, except as provided by rules of the supreme court.

17 * **Sec. 39.** AS 22.15.030 is amended to read

18 **Sec. 22.15.030. Civil jurisdiction.** (a) The district court has jurisdiction of
 19 civil cases, including foreign judgments filed under AS 09.30.200 and arbitration
 20 proceedings under AS 09.43.170, as follows:

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

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

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

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

30 (5) for establishing the fact of death or cause and manner of death of
 31 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

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

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

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

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

11 (10) over cases involving protective orders for domestic violence
12 under AS 18.66.100 - 18.66.180 or protective orders under AS 18.66.190 -
13 18.66.198.

14 (b) Insofar as the civil jurisdiction of the district courts and the superior court
15 is the same, the jurisdiction is concurrent. Except for a petition for a protective order
16 under AS 18.66.100 - 18.66.180 or 18.66.190 - 18.66.198, an action that falls within
17 the concurrent jurisdiction of the superior court and the district court may not be filed
18 in the superior court, except as provided by rules of the supreme court.

19 * **Sec. 40.** AS 22.15.100 is amended to read:

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

21 Each district judge and magistrate has the power

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

26 (2) of a notary public;

27 (3) to solemnize marriages;

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

30 (5) to act as an examining judge or magistrate in preliminary
31 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the

1 release of defendants under bail;

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

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

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

12 (9) to issue a protective order in cases involving domestic violence as
13 provided in AS 18.66.100 - 18.66.180 **and in cases involving non-domestic violence**
14 **stalking as provided in AS 18.66.190 - 18.66.198;**

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

20 (11) to establish the fact of death or inquire into the death of a person
21 in the manner prescribed under AS 09.55.020 - 09.55.069.

22 * **Sec. 41.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 DIRECT COURT RULE AMENDMENT. Rule 65.1, Alaska Rules of Civil
25 Procedure, is amended to read:

26 **Rule 65.1. Domestic Violence and Non-domestic Violence Stalking**
27 **Protective Orders -- Access to Information.** A petitioner who is appearing pro se in
28 a proceeding to obtain a domestic violence protective order under AS 18.66.100 or
29 18.66.110 **or a protective order for non-domestic violence stalking under**
30 **AS 18.66.190** may submit the petitioner's mailing address and telephone number on a
31 separate form and omit this information from other pleadings and papers filed with the

1 court. Access to the form containing the petitioner's mailing address and telephone
 2 number is limited to the court, authorized court system personnel, and the petitioner.
 3 If a child support order is entered in the proceeding, court system personnel may also
 4 provide a copy of the address information form to the Child Support Enforcement
 5 Division. Further disclosure of this form by the Child Support Enforcement Division
 6 is prohibited. If the petitioner submits an information sheet containing the petitioner's
 7 address and telephone number for use by law enforcement agencies, the court may
 8 retain a copy of this document. Access to the copy is limited to the court, authorized
 9 court system personnel, and the petitioner.

10 * **Sec. 42.** The uncodified law of the State of Alaska is amended by adding a new section to
 11 read:

12 DIRECT COURT RULE AMENDMENT. Rule 100(a), Alaska Rules of Civil
 13 Procedure, is amended to read:

14 (a) **Application.** At any time after a complaint is filed, a party may file a
 15 motion with the court requesting mediation for the purpose of achieving a mutually
 16 agreeable settlement. The motion must address how the mediation should be
 17 conducted as specified in paragraph (b), including the names of any acceptable
 18 mediators. If domestic violence has occurred between the parties and mediation is
 19 requested in a matter covered by AS 25, mediation may only be ordered when
 20 permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered by
 21 AS 25, the court may order mediation in response to such a motion, or on its own
 22 motion, whenever it determines that mediation may result in an equitable settlement.
 23 In making this determination, the court shall consider whether there is a history of
 24 domestic violence **or non-domestic violence stalking** between the parties which
 25 could be expected to affect the fairness of the mediation process or the physical safety
 26 of the domestic violence **or non-domestic violence stalking** victim. Mediation may
 27 not be ordered between the parties to, or in, a case filed under AS 18.66.100 -
 28 18.66.180 **or AS 18.66.190. For purposes of this paragraph, "non-domestic**
 29 **violence stalking" has the meaning given in AS 18.66.990.**

30 * **Sec. 43.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 INDIRECT COURT RULE CHANGE. (a) The provisions of sec. 9 of this Act have
2 the effect of amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil
3 Procedure, by providing procedures for small claims actions regarding property seized from a
4 pawnbroker or secondhand dealer.

5 (b) Section 9 of this Act takes effect only if (a) of this section receives the two-thirds
6 majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

7 * **Sec. 44.** The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 INDIRECT COURT RULE CHANGE. (a) The provisions of AS 12.36.070(h),
10 enacted by sec. 9 of this Act, have the effect of amending Rule 9, Alaska Rules of
11 Administration, by prohibiting the court from setting an administrative fee for the filing of a
12 petition or response in accordance with AS 12.36.070, enacted by sec. 9 of this Act.

13 (b) AS 12.36.070(h), enacted by sec. 9 of this Act, takes effect only if (a) of this
14 section receives the two-thirds majority vote of each house required by art. IV, sec. 15,
15 Constitution of the State of Alaska.

16 * **Sec. 45.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 INDIRECT COURT RULE CHANGE. (a) The provisions of AS 18.66.192(c) and
19 18.66.194(c), enacted by sec. 28 of this Act, have the effect of amending Rule 9, Alaska Rules
20 of Administration, by prohibiting the court from setting an administrative fee for the filing of,
21 or for service of process regarding, a petition under AS 18.66.190, enacted by sec. 28 of this
22 Act.

23 (b) AS 18.66.192(c) and 18.66.194(c), enacted by sec. 28 of this Act, take effect only
24 if (a) of this section receives the two-thirds majority vote of each house required by art. IV,
25 sec. 15, Constitution of the State of Alaska.

26 * **Sec. 46.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 REVISOR'S INSTRUCTIONS. The revisor of statutes is instructed to change the
29 following in the Alaska Statutes:

30 (1) the chapter heading of AS 18.66 from "Domestic Violence and Sexual
31 Assault" to "Domestic Violence, Sexual Assault, and Non-domestic Violence Stalking";

1 (2) the article heading of Article 2 of AS 18.66 from "Protective Orders" to
2 "Domestic Violence Protective Orders";

3 (3) the section heading of AS 18.66.100 from "Protective orders: eligible
4 petitioners; relief" to "Domestic violence protective orders: eligible petitioners; relief";

5 (4) the section heading of AS 18.66.110 from "Ex parte and emergency
6 protective orders" to "Domestic violence ex parte and emergency protective orders";

7 (5) the section heading of AS 18.66.120 from "Modification of protective
8 orders" to "Modification of domestic violence protective orders";

9 (6) the section heading of AS 18.66.130 from "Specific protective orders" to
10 "Specific domestic violence protective orders";

11 (7) the section heading of AS 18.66.140 from "Filing and enforcement of
12 protective orders issued in other states" to "Filing and enforcement of domestic violence
13 protective orders issued in other states";

14 (8) the section heading of AS 18.66.310 from "Continuing education for
15 public employees, court system employees, and for prosecuting authorities" to Continuing
16 education".

17 * **Sec. 47.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 **APPLICABILITY.** (a) The changes made by sec. 5 of this Act apply to acts
20 committed on or after the effective date of this Act.

21 (b) Section 9 of this Act applies to property that remains in the possession of a law
22 enforcement agency and that was seized before, on, or after the effective date of this Act.

23 (c) The provisions of sec. 28 of this Act apply to acts committed before, on, or after
24 the effective date of this Act.

25 (d) For a person who, on the effective date of this Act, is serving as a court-appointed
26 guardian ad litem, child custody investigator, or mediator, the changes to AS 18.66.310(b)
27 made by sec. 35 of this Act first apply 180 days after the effective date of this Act.