

HOUSE BILL NO. 317

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES CRAWFORD, Guess, Dyson

Introduced: 1/14/02

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to stalking and amending Rule 4, Alaska Rules of Civil Procedure, and**
2 **Rule 9, Alaska Rules of Administration."**

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

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

5 (a) A person commits the crime of violating a protective order if the person is
6 subject to a protective order containing a provision listed in AS 18.65.850 or
7 AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act in
8 violation of that provision.

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

10 (c) In this section, "protective order" means an order issued or filed under
11 AS 18.65.850 or AS 18.66.100 - 18.66.180.

12 * **Sec. 3.** AS 18.65.540(a) is amended to read:

13 (a) The Department of Public Safety shall maintain a central registry of
14 protective orders issued by or filed with a court of this state under AS 18.65.850 or

1 AS 18.66.100 - 18.66.180. The registry must include for each protective order the
 2 names of the petitioner and respondent, their dates of birth, and the conditions and
 3 duration of the order. The registry shall retain a record of the protective order after it
 4 has expired.

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

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

11 * **Sec. 5.** AS 18.65 is amended by adding new sections to read:

12 **Article 11. Stalking Protective Orders and Notifications to Stalking Victims.**

13 **Sec. 18.65.850. Protective orders for stalking.** (a) A person who reasonably
 14 believes that the crime of stalking, that is not a crime involving domestic violence, is
 15 being committed against the person by another may petition the district or superior
 16 court for an order directing the person who is allegedly committing the stalking to

17 (1) stay away from the home, school, business, or place of employment
 18 of the petitioner and any other location specifically named by the court;

19 (2) refrain from contacting, intimidating, threatening, or otherwise
 20 interfering with the petitioner or a family member of the petitioner specifically named
 21 by the court.

22 (b) After receiving a petition under (a) of this section, a court may grant

23 (1) an ex parte protective order if the court finds that

24 (A) the petition establishes probable cause that the respondent
 25 has committed the crime of stalking against the petitioner;

26 (B) the protective order is necessary to protect the petitioner
 27 from further stalking;

28 (C) reasonable but ultimately unsuccessful efforts have been
 29 made to provide notice of the petition to the alleged stalker; and

30 (D) the petition does not order the respondent to stay away
 31 from the respondent's own home, school, business, or place of employment;

1 (2) a temporary protective order if the court finds that

2 (A) the petition establishes probable cause that the respondent
3 has committed the crime of stalking against the petitioner;

4 (B) the protective order is necessary to protect the petitioner
5 from further stalking;

6 (C) the respondent has been provided notice of the petition; and

7 (D) the petition does not order the alleged stalker to stay away
8 from the alleged stalker's own home, school, business, or place of employment
9 unless the alleged stalker has been provided an opportunity to be heard on the
10 petition; or

11 (3) an extended protective order if the court finds, after a hearing, that

12 (A) by a preponderance of evidence, the respondent has
13 committed the crime of stalking against the petitioner;

14 (B) the protective order is necessary to protect the petitioner
15 from further stalking; and

16 (C) the respondent has been provided at least 10 days' notice of
17 the hearing and of the alleged stalker's right to appear and be heard, either in
18 person or by an attorney.

19 (c) A protective order is not effective until served upon the respondent. An ex
20 parte protective order expires 30 days after the date the order is issued. A temporary
21 protective order expires 30 days after the date the order is served on the respondent.
22 An extended protective order expires six months after the order is served on the
23 respondent.

24 (d) Either the petitioner or the respondent may request modification of a
25 protective order. The court may not grant a modification unless notice of the request
26 has been provided to the adverse party and the adverse party has been granted a
27 reasonable opportunity to be heard. A modified order issued under this subsection
28 replaces the protective order it modifies.

29 (e) A protective order issued by a court under this section shall be delivered to
30 the appropriate law enforcement agency for service on the respondent and for entry in
31 the central registry of protective orders under AS 18.65.540. Service of process shall

1 be as provided in AS 18.66.160 for service of process of domestic violence protective
2 orders.

3 (f) The Alaska Court System shall prepare forms for petitions and protective
4 orders and instructions for their use by a person seeking a protective order under this
5 section. Each protective order form must contain the following warning in boldface
6 type: "Violation of this order may be a misdemeanor, punishable by up to one year of
7 incarceration and up to a \$5,000 fine. Filing fees may not be charged for the filing of
8 a petition under this section."

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

11 **Sec. 18.65.855. Notification to stalking victims.** The Department of Public
12 Safety shall develop and make available to law enforcement agencies in the state a
13 notice that details the rights of victims of stalking, that is not a crime involving
14 domestic violence, and the services available to them. The form must be similar to
15 that provided to victims of domestic violence under AS 18.65.520. A peace officer
16 investigating a stalking offense shall provide the form to the victim. In this section,
17 "crime involving domestic violence" has the meaning given in AS 18.66.990.

18 * **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to
19 read:

20 **INDIRECT COURT RULE AMENDMENTS.** AS 18.65.850(e), added by sec. 5 of
21 this Act, has the effect of amending Rule 4, Alaska Rules of Civil Procedure, and Rule 9,
22 Alaska Rules of Administration, relating to service of process for protective orders for victims
23 of stalking.