

SENATE CS FOR HOUSE BILL NO. 8(CRA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE COMMUNITY AND REGIONAL AFFAIRS COMMITTEE

Offered: 4/5/17

Referred: Judiciary

Sponsor(s): REPRESENTATIVES EDGMON, Kopp, Fansler, Parish, Kito, Gara, Tuck, Josephson

A BILL

FOR AN ACT ENTITLED

"An Act relating to protective orders."

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

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

(a) A person commits the crime of violating a protective order if the person is subject to a protective order

(1) issued, [OR] filed, or recognized under AS 18.66 and containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act with reckless disregard that the act violates or would violate a provision of the protective order;

(2) issued or recognized under AS 18.65.850, 18.65.855, [OR] 18.65.860, or 18.65.867 and knowingly commits or attempts to commit an act that violates or would violate a provision listed in AS 18.65.850(c)(1) - (3); or

(3) issued under AS 13.26.450 - 13.26.460 and knowingly commits or attempts to commit an act with reckless disregard that the act violates or would violate a provision of the protective order.

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

2 (c) In this section, "protective order" means an order issued, [OR] filed, or
 3 recognized under AS 13.26.450 - 13.26.460, AS 18.65.850 - 18.65.870, or
 4 AS 18.66.100 - 18.66.180.

5 * **Sec. 3.** AS 12.30.027(b) is amended to read:

6 (b) A judicial officer may not order or permit a person released under (a) of
 7 this section to return to the residence or place of employment of the victim or the
 8 residence or place of employment of a petitioner who has a protective order directed to
 9 the person and issued, [OR] filed, or recognized under AS 18.66.100 - 18.66.180
 10 unless

11 (1) 20 days have elapsed following the date the person was arrested;

12 (2) the victim or petitioner consents to the person's return to the
 13 residence or place of employment;

14 (3) the person does not have a prior conviction for an offense under
 15 AS 11.41 that is a crime involving domestic violence; and

16 (4) the court finds by clear and convincing evidence that the return to
 17 the residence or place of employment does not pose a danger to the victim or
 18 petitioner.

19 * **Sec. 4.** AS 12.65.130(a) is amended to read:

20 (a) The state child fatality review team shall

21 (1) assist the state medical examiner in determining the cause and
 22 manner of the deaths in this state of children under 18 years of age;

23 (2) unless the child's death is currently being investigated by a law
 24 enforcement agency, review a report of a death of a child within 48 hours of the report
 25 being received by the medical examiner if

26 (A) the death is of a child under 10 years of age;

27 (B) the deceased child, a sibling, or a member of the deceased
 28 child's household

29 (i) is in the legal or physical custody of the state under
 30 AS 47 or under similar custody of another state or political subdivision
 31 of a state; or

(ii) has been the subject of a report of harm under AS 47.17 or a child abuse or neglect investigation by the Department of Health and Social Services or by a similar child protective service in this or another state;

(C) a protective order issued, filed, or recognized under AS 18.66.100, [OR] 18.66.110, or 18.66.140 has been in effect during the previous year in which the petitioner or respondent was a member of the deceased child's immediate family or household; or

(D) the child's death occurred in a mental health institution, mental health treatment facility, foster home, or other residential or child care facility, including a day care facility;

(3) review records concerning

(A) abuse or neglect of the deceased child or another child in the deceased child's household;

(B) the criminal history or juvenile delinquency of a person who may have caused the death of the child and of persons in the deceased child's household; and

(C) a history of domestic violence involving a person who may have caused the death of the child or involving persons in the deceased child's household, including records in the central registry of protective orders under AS 18.65.540;

(4) if insufficient information exists to adequately determine the cause and manner of death, recommend to the state medical examiner that additional information be obtained under AS 12.65.020; and

(5) if a local, regional, or district child fatality review team has not been appointed under AS 12.65.015 or is not available, be available to provide recommendations, suggestions, and advice to state or municipal law enforcement or social service agencies in the investigation of deaths of children.

* **Sec. 5.** AS 18.65 is amended by adding a new section to read:

Sec. 18.65.867. Enforcement and recognition of protective orders issued in other jurisdictions. (a) A protective order issued in another jurisdiction has the same

effect and must be recognized and enforced in the same manner as a protective order issued by a court of this state if the protective order is

(1) issued by a court of the United States, a court of another state or territory, a United States military tribunal, or a tribal court;

(2) related to stalking or sexual assault that is not a crime involving domestic violence; and

(3) entitled to full faith and credit under 18 U.S.C. 2265.

(b) A protective order issued in another jurisdiction that appears authentic on its face is presumed valid.

* **Sec. 6.** AS 18.66.140(b) is amended to read:

(b) A protective order issued in another jurisdiction [FILED IN ACCORDANCE WITH (a) OF THIS SECTION] has the same effect and must be recognized and enforced in the same manner as a protective order issued by a court of this state, regardless of whether the protective order issued in another jurisdiction is filed as described in (a) of this section, if the protective order is

(1) issued by a court of the United States, a court of another state or territory, a United States military tribunal, or a tribal court;

(2) related to domestic violence; and

(3) entitled to full faith and credit under 18 U.S.C. 2265.

* **Sec. 7.** AS 18.66.140 is amended by adding a new subsection to read:

(d) A protective order issued in another jurisdiction that appears authentic on its face is presumed valid.

* **Sec. 8.** AS 22.35.030 is amended to read:

Sec. 22.35.030. Publication of Records [RECORDS CONCERNING CRIMINAL CASES RESULTING IN ACQUITTAL OR DISMISSAL]. The Alaska Court System may not publish a court record [OF A CRIMINAL CASE] on a publicly available website

(1) in a criminal case if 60 days have elapsed from the date of acquittal or dismissal and

(A) [(1)] the defendant was acquitted of all charges filed in the

case;

1 **(B)** [(2)] all criminal charges against the defendant in the case
 2 have been dismissed and were not dismissed as part of a plea agreement in
 3 another criminal case under Rule 11, Alaska Rules of Criminal Procedure;

4 **(C)** [(3)] the defendant was acquitted of some of the criminal
 5 charges in the case and the remaining charges were dismissed; or

6 **(D)** [(4)] all criminal charges against the defendant in the case
 7 have been dismissed after a suspended entry of judgment under AS 12.55.078;

8 **(2) of a protective order under AS 18.65.850 - 18.65.870 or**
 9 **AS 18.66.100 - 18.66.180, restraining order, or injunction in a case involving**
 10 **domestic violence, stalking, or sexual assault if the publication would likely reveal**
 11 **the identity or location of the party protected under the order.**

12 * **Sec. 9.** AS 25.24.210(e) is amended to read:

13 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition
 14 must state in detail the terms of the agreement between the spouses concerning the
 15 custody of children, child support in terms of periodic payments and in terms of health
 16 care expenses, visitation, spousal maintenance and tax consequences, if any, and fair
 17 and just division of property, including retirement benefits. A petition filed by both
 18 spouses under AS 25.24.200(a) may provide for the ownership or joint ownership of
 19 an animal, taking into consideration the well-being of the animal. Agreements on
 20 spousal maintenance and property division must fairly allocate the economic effect of
 21 dissolution and take into consideration the factors listed in AS 25.24.160(a)(2) and (4).
 22 In addition, the petition must state

23 (1) the respective occupations of the petitioners;

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

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

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

30 (5) whether the wife is pregnant;

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

(7) whether any of the following has been issued or filed during the marriage by or regarding either spouse as defendant, participant, or respondent:

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

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

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

or

(D) a protective order issued in another jurisdiction and

recognized [FILED WITH THE COURT] in this state under AS 18.66.140;

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

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

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

(11) any other relief sought by the petitioners.

* **Sec. 10.** AS 25.24.220(h) is amended to read:

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

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

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

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

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

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

or

(D) a protective order issued in another jurisdiction and

recognized [FILED WITH THE COURT] in this state under AS 18.66.140;

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

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