

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

February 13, 2017

2:04 p.m.

MEMBERS PRESENT

Representative Matt Claman, Chair
Representative Zach Fansler, Vice Chair
Representative Jonathan Kreiss-Tomkins
Representative David Eastman
Representative Chuck Kopp
Representative Lora Reinbold

MEMBERS ABSENT

Representative Gabrielle LeDoux
Representative Charisse Millett (alternate)
Representative Louise Stutes (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 8
"An Act relating to protective orders."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 8

SHORT TITLE: ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

SPONSOR(S): REPRESENTATIVE(S) EDGMON

01/18/17	(H)	PREFILE RELEASED 1/9/17
01/18/17	(H)	READ THE FIRST TIME - REFERRALS
01/18/17	(H)	CRA, JUD
01/31/17	(H)	CRA AT 8:00 AM BARNES 124
01/31/17	(H)	Moved HB 8 Out of Committee
01/31/17	(H)	MINUTE (CRA)
02/01/17	(H)	CRA RPT 5DP 1NR
02/01/17	(H)	DP: TALERICO, WESTLAKE, DRUMMOND, PARISH, FANSLER
02/01/17	(H)	NR: RAUSCHER
02/08/17	(H)	JUD AT 1:30 PM GRUENBERG 120
02/08/17	(H)	Heard & Held
02/08/17	(H)	MINUTE (JUD)
02/13/17	(H)	JUD AT 1:30 PM GRUENBERG 120

WITNESS REGISTER

TIM CLARK, Staff
Representative Brice Edgmon
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 8, explained changes related to Version D.

CARMEN LOWRY, Executive Director
Alaska Network on Domestic Violence & Sexual Assault (ANDVSA)
Juneau, Alaska

POSITION STATEMENT: During the hearing on HB 8, offered support for the legislation.

TERRA BURNS
Community United for Safety and Protection (CUSP)
Unknown Location

POSITION STATEMENT: During the hearing of HB 8, offered support for the legislation.

JAYNE ANDREEEN, Interim Executive Director
Alaska Council on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 8, offered support for the legislation.

MARY LUNDQUIST, Senior Assistant Attorney General
Opinions, Appeals & Ethics Section
Office of the Attorney General
Department of Law (DOL)
Fairbanks, Alaska

POSITION STATEMENT: During the hearing of HB 8, answered questions.

MEGAN WALLACE, Attorney
Legislative Legal and Research Services
Legislative Affairs Services
Juneau, Alaska

POSITION STATEMENT: During the hearing of HB 8, answered questions.

ACTION NARRATIVE

[2:04:14 PM](#)

CHAIR MATT CLAMAN called the House Judiciary Standing Committee meeting to order at 2:04 p.m. Representatives Kreiss-Tomkins, Eastman, Kopp, Reinbold, Fansler, and Claman were present at the call to order.

HB 8-ENFORCEMENT OF FOREIGN PROTECTIVE ORDERS

[2:04:55 PM](#)

CHAIR CLAMAN announced that the only order of business would be HOUSE BILL NO. 8, "An Act relating to protective orders."

[2:05:23 PM](#)

TIM CLARK, Staff, Representative Brice Edgmon, Alaska State Legislature, referred to the Explanation of Changes in Committee Substitute for HB 8, and paraphrased as follows [original punctuation provided]:

During HB 8's first hearing before the House Judiciary Committee, Representative Eastman noticed two sections of the bill that could be drafted more economically.

Sections 8 and 9 of the original bill concern recognition of domestic-violence-related protective orders in statutes regarding dissolution of marriage.

Section 8 included that a petition for dissolution of a marriage must state whether during the marriage one spouse or the other was either the petitioner or respondent of a domestic-violence related protective order.

Section 9 included that a court should give a heightened level of scrutiny to dissolution agreements if one party or the other was either the petitioner or respondent of a domestic violence-related protective order.

These statutes currently single out protective orders issued in another jurisdiction, including the requirement that they be filed with an Alaska court. However, because of the amendments the bill makes to AS 18.66.140(b) that singling out is no longer necessary. Protective orders issued in another jurisdiction, along with the fact that they needn't be

filed with an Alaska court, would now be covered in the range of statutes—AS 18.66.100 through 18.66.180—already cited in these sections, at AS 25.24.210(e)(7)(B) and at AS 25.24.220(h)(2)(B).

The committee substitute therefore simply repeals the subparagraphs that make reference to "a protective order issued in another jurisdiction and filed with the court in this state under AS 18.66.140." These are AS 25.24.210(e)(7)(D) and AS 25.24.220(h)(2)(D).

[2:08:22 PM](#)

REPRESENTATIVE KOPP asked the location of the repealers in Version D.

MR. CLARK advised they are in Sec. 8, [page 4, line 23].

CHAIR CLAMAN explained that the difference between the original bill and Version D, is that Sec. 8 and 9 of the original bill are deleted, and the remainder of the bill remains the same.

MR. CLARK agreed, and he said Version D is a more economical way of drafting the bill.

[2:09:41 PM](#)

REPRESENTATIVE FANSLER surmised that all of this is captured in another section of the code somewhere, and that this is a duplicate of that code.

MR. CLARK referred to Sec. 8 of the original bill, beginning page 5, lines 18-19, [AS 25.24.210(e)(7)(D)], which read as follows:

(D) a protective order issued in another jurisdiction and recognized [FILED WITH THE COURT] in this state under AS 18.44.140;

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MR. CLARK then referred to [AS 25.24.210(e)(7) and (e)(7)(B)], page 5, lines 12-19], which read as follows:

(7) whether any of the following has been issued or filed during the marriage by or regarding

either spouse as defendant, participant, or respondent:

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

MR. CLARK advised that either spouse could also have been the defendant, participant, or respondent under AS 18.66.100 - 18.66.180, which read as follows:

(D) a protective order issued in another jurisdiction and recognized [FILED WITH THE COURT] in this state under AS 18.66.140;

MR. CLARK then referred to Sec. 6 [AS 18.66.140(b), page 4, lines 11-19], which read as follows:

(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.

MR. CLARK noted that [AS 18.66.140(b), Version D, page 4, lines 11-19] details the fact that a protective order from another jurisdiction no longer requires registration in a court of Alaska [to be enforced].

MR. CLARK further explained that the language in [Version A], AS 18.66.140(b)(7)(D) falls within the range described in AS 18.66.140(b)(1)] (B); therefore, the language is no longer necessary, which read as follows:

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

(D) a protective order issued in another jurisdiction and recognized [FILED WITH THE COURT] in this state under AS 18.66.140;

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REPRESENTATIVE KOPP said that [Version D] may be more economical, but something important may be missing because [subparagraph] (B) discusses protective orders and it is under the umbrella of being issued by a state court of jurisdiction. Alaska has a unified court system in Alaska "so it's -- it's not -- you know, we don't have municipal law in Anchorage, I guess they do, but other than that we're state." He related that subparagraph (D) is important because it discusses a protective order issued in another jurisdiction, "meaning outside or not, not recognized -- it's not within Alaska. He opined that the only jurisdiction "they can be talking about" is a non-Alaska court of jurisdiction, so it may not just be semantics we're talking about here."

MR. CLARK responded by pointing the committee to Version A, Sec. 6, and reiterated that [subparagraph] (B) does lay within the range described in [subparagraph] (B). [Subparagraphs (B) and (D) were transcribed above.] He explained that, as amended, [Versions A and D], AS 18.66.140(b) does specifically address the issue of protective orders issued in other jurisdictions, together with the fact that protective orders are no longer required to be registered in a court of the State of Alaska to be enforced.

[2:15:04 PM](#)

REPRESENTATIVE KOPP asked what section of law is AS 25.24 is related to, and noted that AS 18.66 is domestic violence.

MR. CLARK responded that it addresses statutes having to do with the dissolution of marriage.

REPRESENTATIVE KOPP expressed concern that it is dealing with a separate section of the law, and the committee could inadvertently do something it doesn't want to do.

[2:16:38 PM](#)

REPRESENTATIVE REINBOLD referred to the Sponsor's Statement as to Version D, and noted that the word "foreign" was added.

MR. CLARK answered that it is a "term of art," used in a legal context to refer to a protective order issued by another

jurisdiction, and it doesn't imply a court outside the boundaries of the United States.

REPRESENTATIVE REINBOLD asked whether Mr. Clark could ensure that his testimony is absolutely the case so there is never a broader interpretation.

MR. CLARK opined that it is quite firmly ensured in Version D, Sec. 6, [AS 18.66140(b)], [page 4, lines 16-17], which read as follows:

(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;

REPRESENTATIVE REINBOLD noted that she understands, although it raised concern because the language was not included in Version A.

[2:19:07 PM](#)

REPRESENTATIVE FANSLER moved to adopt HB 8, Version 30-LS0127\D as the working document. There being no objection, Version D was before the committee.

REPRESENTATIVE CLAMAN opened public testimony.

[2:20:16 PM](#)

CARMEN LOWRY, Executive Director, Alaska Network on Domestic Violence & Sexual Assault (ANDVSA), advised that the Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) is comprised of 18 member programs, with 6 affiliate members, providing shelter and emergency response services, and prevention services around issues of domestic violence and sexual assault. The Alaska Network on Domestic Violence & Sexual Assault (ANDVSA) supports HB 8, and she noted that the bill does bring Alaska into compliance with the Violence Against Women Act (VAWA), it brings the state into best practices, and it may allow ANDVSA to access additional funds. Oftentimes, she explained, victims and survivors living in rural areas must go to regional hubs in order to access services. In the event these individuals are able to obtain a protective order from their own tribal government, it will provide an extra level of security and protection when they arrive [at their destination].

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MS. LOWRY offered that the recognition of protective orders from other states, and particularly territories, is important because ANDVSA has a large network that extends down to coalitions in other states. She explained there are times that victims and survivors need to flee from their own state and move to Alaska, and ANDVSA is able to facilitate that. This bill allows them to have the safety they need in transit and upon arrival. Finally, she offered, it shores up trust because people know they can obtain a protective order that will be respected in other jurisdictions, and they will be kept safe.

[2:23:08 PM](#)

REPRESENTATIVE REINBOLD offered concern that officials in the tribal courts may know the person who committed the assault, and the person may not receive the justice they deserve due to the close relationships within the villages. She asked whether Ms. Lowry had concerns in that regard.

MS. LOWRY responded that in a small isolated rural area, people know people - it is a given. She opined that once a protective order is obtained, at one point it will expire with opportunities to extend the order for other reasons. She explained that the first time a person obtains a protective order, it is based on the notion that someone needs that protection. She stated that she was unsure how to answer the question of limiting an alleged perpetrator or an alleged defendant access to justice, but she could get back to the committee.

REPRESENTATIVE KOPP said that having worked in small villages in his public safety capacity, small communities are effective at carrying out justice.

[2:26:24 PM](#)

TERRA BURNS, Community United for Safety and Protection (CUSP), advised that the Community United for Safety and Protection (CUSP) strongly supports HB 8, because it is well known that Alaska is the rape capital, the domestic violence capital, and the child abuse capital of the country, and it only makes sense to at least bring Alaska into compliance with federal law regarding these issues. She asked that the committee vote yes on the bill.

[2:27:10 PM](#)

JAYNE ANDREEEN, Interim Executive Director, Alaska Council on Domestic Violence and Sexual Assault, advised that the Alaska Council on Domestic Violence and Sexual Assault supports this bill, it aligns with federal level and ensures the greatest level of protection for victims across the country, especially as they move to Alaska. It is important to recognize that the flip side is also true for people who obtain restraining orders in Alaska; however that may be, when they go out-of-state their order is enforced, she offered.

CHAIR CLAMAN, after ascertaining no one wished to testify, closed public testimony on HB 8.

[2:29:04 PM](#)

MARY LUNDQUIST, Senior Assistant Attorney General, Opinions, Appeals & Ethics Section, Office of the Attorney General, Department of Law (DOL), in response to Representative Eastman's earlier question that referred to the removal, in Sec. 8 of the Title 25 paragraph, regarding the petition for dissolution of marriage, and echoed the comments of Mr. Clark. She explained that the earlier reference in statutes AS 18.66.100 - 18.66.180, would include the statute AS 18.66.140, which deals with the law of protective orders. She opined that the elimination of the two paragraphs in Sec. 8 is fine.

[2:30:02 PM](#)

REPRESENTATIVE FANSLER noted that Version D reads that AS 25.254.210(e)(7)(D) and 25.24.220(h)(2)(D) are repealed. He surmised that it means the committee is taking them out of statute which pertain to dissolution of marriage, and asked whether the language is captured elsewhere in the statutes.

MS. LUNDQUIST answered that both subparagraphs (D), referred to in Sec. 8 of the bill, is reference to the law of protective orders that were required to be filed under AS 18.66.140(b) as it is currently written. The requirement that foreign protective orders be filed [in Alaska courts] before enforcement, she said.

[2:32:02 PM](#)

REPRESENTATIVE KOPP asked whether there could be value when introducing a new concept into the law to restate that a protective order issued in another jurisdiction is valid, he

commented. He said he is trying to weigh the effect of economizing language when the committee is also talking about an entirely different section of law outside of the domestic violence statutes, now in the dissolution of marriage.

[2:33:43 PM](#)

Ms. LUNDQUIST responded that sometimes duplication and multiple statements in a statute, runs the risk of confusing things more than helping fix things. In that regard, she pointed out, someone looking at the statute might look at the two separate paragraphs and surmise that the paragraphs can't mean the same thing because they are both put into the statutes. Whereas here, she opined, the removal of subparagraph (D) in Sec. 8 would form a reference to the VAWA protective orders, which would fall under the revised AS 18.66.140(b).

[2:34:31 PM](#)

REPRESENTATIVE CLAMAN interjected if one looks at the two different sections in Sec. 8, of Version D, AS 25.24.210(e)(7)(D) and AS 25.24.220(h)(2)(D) are repealed. He explained that the language in those two statutes are not repealing a huge bunch of statute language. Actually, he further explained, the language being removed is a short paragraph that is identical language in both. He paraphrased as follows: "Subsection (b). A protective order issued in another jurisdiction and filed with the court in this state under AS 18.66.140."

[2:35:45 PM](#)

CHAIR CLAMAN explained that it removes a small subsection rather than changing large portions of the divorce and dissolution statutes. He opined that that is the place of concern because a lot of language, in Sec. 8 and 9, appear in the original bill. The actual part being deleted is a small part of both of those sections, he reiterated.

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REPRESENTATIVE FANSLER inquired as to the historical reason for this since it was duplicative all along, and it references a protective order under AS 18.66.100 - 18.66.180, thereby encompassing AS 18.66.140. He commented there was some reason that this was included prior to this, and it causes concern to

not know the reason prior to this and eliminate it without knowing that reason.

MS. LUNDQUIST advised that she does not know the historical reason [subparagraph D] was in AS 18.66.140.

[2:38:16 PM](#)

MEGAN WALLACE, Attorney, Legislative Legal Counsel, Legislative Legal and Research Services, Legislative Affairs Services, responded that she had not performed the legislative history, but from a drafting perspective, subparagraph (D) that is being repealed in Version D, had a requirement that the foreign protective order issued in another jurisdiction had to be filed in the this state under AS 18.66.140 to be recognized. She explained that those amended provisions and state that the protective orders are now, essentially, automatically recognized. She offered her understanding that the necessity to specifically spell out that the protective order is recognized under AS 18.66.140, is no longer necessary because it would be captured above. Prior to that, she related, it may have been necessary to point out that those protective orders in another jurisdiction had to be filed with the court in Alaska first. That is the only explanation she can offer but, again, that's qualified in the sense that she hasn't gone through the legislative history to confirm that was the initial intent of that law when it was enacted, she said.

REPRESENTATIVE FANSLER noted that it references Version D, Sec. 6, AS 18.66.140, and he paraphrased as follows: "A protective order filed in accordance with [subsection] (a) of this section." He pointed out that it appears to be referencing things that were already there and he would like its legislative history.

[2:40:41 PM](#)

REPRESENTATIVE EASTMAN opined that the primary purpose of this bill is to remove the requirement that protective orders be registered in Alaska [to be enforced]. By removing that requirement, Alaska is now in compliance with federal law and if the statute had been written "without that" it would have looked "as we see here now." He advised that the requirement created additional paragraphs, and in keeping with the purpose of the bill, the statutes would return to what it would have looked like without that special caveat.

[2:42:56 PM](#)

MR. CLARK related that the bill drafter emphasized the language in "the amended section in the bill." He asked the committee to look at the explanation of changes regarding the dissolution statutes, and explained that subparagraph (D) was a singling out of protective orders issued in other jurisdictions, including the requirement that they be filed in an Alaska court. He said, "The crux is, however, because of the amendments the bill makes to AS 18.66.140(b), that singling out is no longer necessary." Those protective orders are now covered in that full range, assuming the amendment made in Sec. 6 [Version D] stands. He related that his description is the simplest way of describing it, and the bill drafter went a long way in explaining that.

[2:44:24 PM](#)

REPRESENTATIVE FANSLER advised that he is supportive of this bill, although, he has a particular fear of Version D without more background knowledge. He pointed out that to save 17 words in two different parts of the statute could come at a loss or could have an unintended consequence. He remarked that subparagraph (D) has been duplicative all along to subsection (b) which means someone highlighted it for some reason.

[2:45:34 PM](#)

REPRESENTATIVE KOPP agreed with Representative Fansler, and said this is an example of the importance of the revisor's bill because the revisor's office wades through these tedious issues endlessly in preparing the annual work product for the legislature's review. He commented this might be a harmless error, as Ms. Wallace pointed out, but he appreciates this discussion because sometimes in attempts to economize, the legislature can do more damage than good.

REPRESENTATIVE EASTMAN related there is the possibility of the revisor coming back in a subsequent legislature to request a change, but that is not any reason to change the law and expect the revisor to come back and do the work for us. In reference to the discussion, in his mind it is clear what the original statute accomplished and he is unaware of any particular discussion that would have given him pause for these changes. In the event the committee is instructing judges on how they are to deal with child custody issues, the committee can safely assume the judges will be apprised of the changes to this

statute. When speaking with law enforcement on the street there is value in spelling out the changes in statute, he noted.

[2:49:04 PM](#)

The committee took an at ease from 2:49 p.m. to 2:53 p.m.

[2:53:06 PM](#)

CHAIR CLAMAN explained that during the at ease, Representative Fansler had questions and, in an abundance of caution, the committee will not move this bill today.

[HB 8 was held over.]

[2:53:52 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:53 PM.