

**ALASKA STATE LEGISLATURE
SENATE JUDICIARY STANDING COMMITTEE**

April 12, 2023

2:30 p.m.

MEMBERS PRESENT

Senator Matt Claman, Chair
Senator Jesse Kiehl, Vice Chair
Senator James Kaufman
Senator Löki Tobin
Senator Cathy Giessel

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 28

"An Act relating to workplace violence protective orders; relating to the crime of violating a protective order; relating to the powers of district judges and magistrates; amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 28

SHORT TITLE: WORKPLACE VIOLENCE PROTECTIVE ORDERS

SPONSOR(S): SENATOR(S) CLAMAN

01/18/23	(S)	PREFILE RELEASED 1/9/23
01/18/23	(S)	READ THE FIRST TIME - REFERRALS
01/18/23	(S)	STA, JUD
02/23/23	(S)	STA AT 3:30 PM BELTZ 105 (TSBldg)
02/23/23	(S)	Heard & Held
02/23/23	(S)	MINUTE(STA)
03/23/23	(S)	STA AT 3:30 PM BELTZ 105 (TSBldg)
03/23/23	(S)	Moved SB 28 Out of Committee
03/23/23	(S)	MINUTE(STA)
03/24/23	(S)	STA RPT 1DP 3NR 1AM
03/24/23	(S)	NR: KAWASAKI, MERRICK, BJORKMAN
03/24/23	(S)	DP: WIELECHOWSKI

03/24/23 (S) AM: CLAMAN
04/12/23 (S) JUD AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

LIZZIE KUBITZ, Staff
Senator Matt Claman
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional analysis for SB 28, version B.

NANCY MEADE, General Counsel
Alaska Court System
Anchorage, Alaska

POSITION STATEMENT: Provided information related to SB 28.

BRENDA STANFILL, Executive Director
Alaska Network on Domestic Violence and Sexual Assault
Juneau, Alaska

POSITION STATEMENT: Provided invited testimony in support of SB 28.

ACTION NARRATIVE

[2:30:26 PM](#)

CHAIR MATT CLAMAN called the Senate Judiciary Standing Committee meeting to order at 2:30 p.m. Present at the call to order were Senators Kaufman, Tobin, and Chair Claman. Senators Giessel and Kiehl arrived thereafter.

SB 28-WORKPLACE VIOLENCE PROTECTIVE ORDERS

[2:31:12 PM](#)

CHAIR CLAMAN announced the consideration of SENATE BILL NO. 28 "An Act relating to workplace violence protective orders; relating to the crime of violating a protective order; relating to the powers of district judges and magistrates; amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration; and providing for an effective date."

CHAIR CLAMAN advised that because he was the sponsor, he was turning the gavel over to Senator Tobin while he introduced the bill.

[2:31:28 PM](#)

At ease

[2:31:47 PM](#)

ACTING CHAIR TOBIN reconvened the meeting and asked the sponsor to introduce the bill.

[2:32:07 PM](#)

SENATOR MATT CLAMAN, speaking as sponsor of SB 28, introduced the bill speaking to the following prepared testimony:

A member of the legal community contacted our office about a situation where a former employee made a credible threat that he intended to go into the employer's worksite and shoot as many people as he could. When the attorney representing the employer tried to obtain a restraining order, she realized that to protect the employer, she would need to file a civil lawsuit and ask for a temporary restraining order. The process took several days to complete and obtain the order. In contrast, people seeking a domestic violence restraining order can usually get the court order within one day.

Senate Bill 28, modeled after Alaska's domestic violence protective order process, allows an employer to file a petition for a protective order against an individual who the employer reasonably believes committed an act of violence against the employer or an employee, or made a threat of violence against the employer or an employee that can reasonably be construed as a threat that may be carried out at the employer's workplace. A violation of the provisions of the protective order would be the crime of violating a protective order, which is a class A misdemeanor.

The intent of Senate Bill 28 is to help prevent incidents such as the fatal shooting of a hospital employee by an ex-employee at the Soldotna Central Peninsula General Hospital in November 2008. Eight states have laws providing for the issuance of workplace restraining orders and three states have the option for employers to file the same type of orders that are available to victims. Several other states are currently considering related legislation.

Senate Bill 28 gives employers a more effective way to protect their workplace and their employees from threats of violence.

[2:33:56 PM](#)

LIZZIE KUBITZ, Staff, Senator Matt Claman, Alaska State Legislature, Juneau, Alaska, presented the sectional analysis for version B of SB 28, which makes a minor change in Section 6. She read the following:

Section 1

AS 11.56.740. Violating a protective order.
amends AS 11.56.740(a) by adding a new subsection (4) to specify that a person commits the crime of violating a protective order if the person knowingly commits or attempts to commit an act that violates the provisions listed under the workplace violence protective order statutes.

Section 2

AS 11.56.740. Violating a protective order.
Amends AS 11.56.740(c) by adding the workplace violence protective order statutes to the meaning of "protective order."

Section 3

AS 18.65.530. Mandatory arrest for crimes involving domestic violence, violation of protective orders, and violation of conditions of release.
Amends AS 18.65.530(a) by clarifying that the mandatory arrest statute for crimes involving domestic violence, violation of protective orders, and violation of conditions of release is subject to the requirements of sec. 1.

Section 4

AS 18.65.540. Central registry of protective orders.
Amends AS 18.65.540(a) to add the workplace violence protective order statutes to the central registry of protective orders maintained by the Department of Public Safety.

Section 5

AS 18.65.540. Central registry of protective orders.
Amends AS 18.65.540(b) to add the workplace violence protective order statutes to the list of protective orders a peace officer enters into the central registry within 24 hours of receiving.

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Section 6

Amends AS 18.65 to add new section: "Article 12A. Workplace Violence Protective Orders."

Sec. 18.65.875(a) Protective orders; eligible petitioners; relief.

Section (a) gives employers the ability to file a petition for a protective order against an individual who the employer reasonably believes: (1) committed an act of violence against the employer; (2) committed an act of violence against an employee at the workplace; or (3) made a threat of violence against the employer or an employee that can reasonably be construed as a threat that may be carried out at the employer's workplace.

MS. KUBITZ explained that this is where version A and version B vary. The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) expressed concern that an employer may seek a workplace violence protective order on behalf of an employee that may be experiencing interpersonal violence outside of the workplace. Taking such action on behalf of the employee without consent could be harmful and unsafe for that employee. Therefore, subsection (b) clarifies that violence against an employee would need to occur at the workplace for it to qualify. This ensures that an employer is acting within their duty to provide a safe working environment and not overstepping.

MS. KUBITZ continued:

Section (b) specifies that the court shall schedule a hearing and provide at least 10 days' notice to the respondent.

Section (c) details prohibited behavior of the respondent after the protective order is issued.

Section (d) describes the court's responsibilities related to issuing a protective order.

Section (e) clarifies a court may not deny a petition for a protective order solely because of a lapse of time between an act of violence or a threat of violence and the filing of the petition.

Sec. 18.65.877. Ex parte protective orders for workplace violence.

Gives employers the ability to file a petition for an ex parte protective order—a temporary order that would grant immediate protection.

Sec. 18.65.880. Modification of workplace violence protective order.

Creates a process for either the petitioner or the respondent to request modification of a protective order.

Sec. 18.65.885. Specific protective orders.

Specifies that an invitation by the petitioner or a named designated employee of the petitioner to communicate with the petitioner or to be present at or enter the workplace, residence, vehicle, or other place does not in any way invalidate or nullify the protective order.

Sec. 18.65.890. Forms for petitions and orders; fees.

Clarifies that the court system will prepare forms for petitions, protective orders, and instructions for their use by an employer seeking a protective order.

Sec. 18.65.895. Service of process.

Clarifies that protective orders should be promptly served and executed.

Sec. 18.65.897. Civil liability.

Creates civil liability provisions.

Sec. 18.65.899. Definitions.

Makes the definitions of "course of conduct," "employee," "employer," "threat of violence," "violence," and "workplace" apply to the workplace violence protective statutes.

Section 7

AS 22.15.100. Functions and powers of district judge and magistrate.

Amends AS 22.15.100(9) by adding a new section (C) to give district judges and magistrates the power to issue a protective order in cases involving workplace violence.

Section 8

Uncodified law - Indirect court rule amendments.

Specifies amendments to Rule 4, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration, relating to fees and service of process for a workplace violence protective order; and Rule 65, Alaska Rules of Civil Procedure, by changing the method for obtaining and the timing of temporary restraining orders.

Section 9

Uncodified law - applicability.

Makes sec. 8 conditional on approval by the two-thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of Alaska.

Section 10

Effective date.

If sec. 9 takes effect, it takes effect on January 1, 2024.

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ACTING CHAIR TOBIN asked if there were questions.

[2:40:07 PM](#)

SENATOR GIESSEL asked about Section 5, page 4, lines 14-16 that says, "... may not deny a petition for a protective order solely because of a lapse of time between an act of violence ... and the filing of the petition." She asked if that language infers no statute of limitations.

MS. KUBITZ stated that the section applies to retroactivity, but she was unsure of any specified statute of limitations. She deferred further response to the sponsor.

SENATOR CLAMAN replied that the bill tracks the language in the domestic violence protective order statutes. He stated that the similarity between the language in the domestic violence protective order and the bill involves time. If an act occurred a year ago, that is not a reason to deny the petition.

SENATOR GIESSEL asked about applicability if the act occurred ten years ago.

SENATOR CLAMAN replied that he had experienced judges denying ex parte petitions because the threat wasn't sufficiently present. He imagined that the longer period would require further inquiry. He opined that the petition process would be best decided by the court.

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SENATOR KAUFMAN asked why a general restraining order would not suffice. He wondered if the restraining order must be articulated by location or venue.

SENATOR CLAMAN responded that the introduction to the bill highlights the challenge associated with domestic violence restraining orders. Alaska law provides a structure to get a restraining order faster in the domestic violence context. The bill attempts to create a similar structure for workplace violence threats.

SENATOR KAUFMAN presumed that the established protective order process should address all domestic violence and workplace violence needs.

SENATOR CLAMAN responded that a change of that caliber would be a policy call for the legislature. This bill makes it clear that the legislature can expand the authority to issue protective orders.

ACTING CHAIR TOBIN referenced page 3, lines 8-10. She asked if the stipulations would prevent an employee from petitioning a different type of protective order if the employer decided not to petition a workplace violence protective order on behalf of the employee.

MS. KUBITZ denied that the bill limited any other course of action.

ACTING CHAIR TOBIN highlighted page 3, line 11. She asked what an act of violence would look like if the employer was the perpetrator.

SENATOR CLAMAN responded that the inquiry deserved further study.

ACTING CHAIR TOBIN discussed people who travel for work. She pointed to stipulation 2, on page 3, line 12, highlighting the act of violence against the employee at the workplace. She queried the process if a person's workplace was their vehicle.

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MS. KUBITZ replied that version B seeks to strike a balance. She mentioned that other states added a stipulation that employers must try to provide notice that a person is targeted. A good

faith effort does not imply consent to move forward with the process, so the sponsor sought to strike a balance. She agreed that the question deserved further consideration.

ACTING CHAIR TOBIN appreciated the commentary. She highlighted workplace shifts since the pandemic, with many people working from home. She asked about the definition of "employer" on page 8 under AS 18.80.300, which does not include religious organizations. She queried the process if an employer is a church.

MS. KUBITZ replied that the provision does not apply to religion if the club, association, or appropriation is not an organized non-profit organization.

ACTING CHAIR TOBIN mentioned an Alaskan non-profit organization owned by a church. She pointed out rural Alaska challenges.

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SENATOR KAUFMAN asked about the linear sequence of events if a person is threatened in the workplace.

SENATOR CLAMAN deferred to Nancy Meade.

[2:54:27 PM](#)

NANCY MEADE, General Counsel, Alaska Court System, Anchorage, Alaska, replied that the legislation is meant to mirror the existing provisions for domestic violence and stalking protective orders. She pointed to page 3, lines 11-16. She noted that committing an act of violence would be reported as a crime. In this event, the defendant/perpetrator has a hearing in front of the court within 24 hours. A bail order is set, and the defendant/perpetrator would be told to stay away from the person. If a crime is alleged, a protective order would not be necessary. She stated that the threat of violence would be handled differently, as stated on lines 14-16. The threat must be reasonably construed to be carried out in the employer's workplace.

MS. MEADE responded to Senator Kaufman's question. She stated that domestic violence protective orders involving the threat of violence are classified as immediate or long-term. A long-term protective order can last for six months. She noted that most petitioners request both types of protective orders. She pointed to page 4, line 17 related to the process. The petitioner first requests the hearing and provides information about the

complaint. The respondent is not present, hence the ex parte classification.

MS. MEADE continued that the court must then find probable cause that the violence or the recent threat of violence was made. The second finding deems that it is necessary to protect the petitioner. She mentioned the requirement to attempt to provide notice to the respondent. The court can then issue the short-term 20-day order. The court also informs the petitioner about a hearing and the document is delivered to the police department or state troopers who serve it to the respondent.

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At ease

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CHAIR CLAMAN reconvened the meeting and solicited a motion to adopt the CS.

[3:00:46 PM](#)

SENATOR TOBIN moved to adopt the committee substitute (CS) for SB 28, work order 33-LS0242\B, as the working document.

SENATOR CLAMAN found no objection and version B was adopted.

CHAIR CLAMAN turned to invited testimony.

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BRENDA STANFILL, Executive Director, Alaska Network on Domestic Violence and Sexual Assault (ANDVSA), Juneau, Alaska, provided invited testimony in support of SB 28. She explained that the protective orders for domestic violence, sexual assault, and stalking are tools used regularly for protection. She stated that the legislation benefits people in rural areas. She shared a story about people threatening staff as they come and go from the workplace. Law enforcement is helpless, and SB 28 provides a tool to be able to help protect them. She supported an avenue for further protection in the workplace. She appreciated the acknowledgement of the request that the bill addresses the workplace alone for further protection of clients.

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SENATOR KIEHL joined the committee.

[3:04:11 PM](#)

CHAIR CLAMAN held SB 28 in committee for further consideration.

3:04:32 PM

There being no further business to come before the committee, Chair Claman adjourned the Senate Judiciary Standing Committee meeting at 3:04 p.m.