

Original sponsors: Clocksin and Malone

Offered: 4/28/81
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2

CS FOR HOUSE BILL NO. 287 (Judiciary)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

TWELFTH LEGISLATURE - FIRST SESSION

5

A BILL

6

For an Act entitled: "An Act relating to domestic violence."

7

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

8

* Section 1. AS 09.55.600(b) is amended by adding new paragraphs to

9

read:

10

(7) direct the respondent to engage in personal or family

11

counseling;

12

(8) restrain the respondent from entering a propelled vehicle

13

in the possession of or occupied by the petitioner.

14

* Sec. 2. AS 09.55.600(c) is amended to read:

15

(c) An order issued under this section remains in effect for a
period of time not to exceed 90 [45] days. However, the petitioner may

16

petition the superior court for an extension [EXTENSIONS] of a provision

17

of the order if the provision is described in (b)(1), (b)(2) or (b)(3)

18

of this section. If the superior court, after notice to the respondent

19

of and a hearing on the petition for the extension in accordance with

20

the procedures described in (b) of this section, finds that an extension

21

of the provision of the order is necessary for the protection of the

22

health, safety or welfare of the petitioner or of a minor child in the

23

care of the petitioner [TO PROTECT THE PETITIONER FROM DOMESTIC VIO-

24

LENCE], the superior court may extend the provision of the order for a

25

period of time not to exceed 45 days. The court may not grant more

26

than one extension under this subsection.

27

28

* Sec. 3. AS 09.55.610(c) is amended to read:

29

(c) An order issued under this section may include a provision

1 described in AS 09.55.600(b). The order shall be endorsed with the
2 date and hour of issuance, shall be filed in the clerk's office and
3 entered in the records of the court, and shall state the reason that it
4 was granted without notice. The order shall remain in effect for a
5 period not to exceed 20 [10] days, unless extended by the court for
6 good cause. The reasons for the extension shall be entered in the
7 records of the court.

8 * Sec. 4. AS 09.55.610(e) is amended to read:

9 (e) On three [TWO] days notice to the petitioner, or on shorter
10 notice as the superior court may prescribe, the respondent may make a
11 motion to the superior court for the dissolution or modification of an
12 order for emergency injunctive relief under this section. The superior
13 court shall hear and rule on the motion in an expeditious manner.

14 * Sec. 5. AS 09.55.640 is amended to read:

15 Sec. 09.55.640. DEFINITIONS. For the purposes of AS 09.55.600 -
16 09.55.640, "domestic violence" means a crime under AS 11.41 committed
17 against a spouse or [,] a former spouse of the respondent, [OR] a
18 member of the social unit comprised of those living together in the
19 same dwelling as the respondent, or a person related within the second
20 degree by blood or marriage to the respondent.

21 * Sec. 6. AS 11.46.350(a) is amended by adding a new paragraph to read:

22 (3) enter or remain upon premises or in a propelled vehicle
23 in violation of a provision in an order issued under AS 09.55.600(b) or
24 09.55.610.

25 * Sec. 7. AS 11.61.120(a) is amended by adding a new paragraph to read:

26 (6) violates a provision of an order issued under AS 09.55.-
27 600(b) or 09.55.610 restraining the respondent from communicating
28 directly or indirectly with the petitioner.

29 * Sec. 8. AS 12.25.030(b) is amended to read:

1 (b) In addition to the authority granted under (a) of this sec-
2 tion, a peace officer without a warrant may arrest a person when he has
3 reasonable cause for believing that the person has committed a crime
4 under AS 11.41, AS 11.46.330, or AS 11. 61.120 and the victim is a
5 spouse or former spouse of the person, a member of the social unit
6 comprised of those living together in the same dwelling as the person,
7 or another person related within the second degree by blood or marriage
8 to the person [ASSAULT IN THE FOURTH DEGREE UNDER AS 11.41.230(a)(1)
9 AGAINST A MEMBER OF THE PERSON'S HOUSEHOLD].

10 * Sec. 9. AS 12.30.025(b) is amended to read:

11 (b) As used in this section, "domestic violence" means a crime
12 specified in AS 11.41 when the victim is [COMMITTED AGAINST] a spouse
13 or [,] a former spouse of the defendant, [OR] a member of the social
14 unit comprised of those living together in the same dwelling as the
15 defendant, or a person related within the second degree by blood or
16 marriage to the defendant.

17 * Sec. 10. AS 12.55.135(c) is amended to read:

18 (c) A defendant convicted of assault in the fourth [THIRD] degree
19 committed in violation of the provisions of an order issued under
20 AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of
21 imprisonment of 10 days. The execution of sentence may not be suspended
22 and probation or parole may not be granted until the minimum term of
23 imprisonment has been served. Imposition of sentence may not be sus-
24 pended, except upon condition that the defendant be imprisoned for no
25 less than the minimum term of imprisonment provided in this section,
26 and the minimum sentence provided for in this section may not be other-
27 wise reduced.

28 * Sec. 11. AS 18.65.520(a) is amended to read:

29 (a) During the course of responding to an offense involving

1 domestic violence, a peace [POLICE] officer shall orally and [OR] in
2 writing inform the victim of services available to the victim and the
3 rights of the victim, substantially as follows:

4 As a victim of domestic violence you should be aware of the follow-
5 ing:

6 (1) In some places in Alaska there are organizations that
7 provide aid and shelter to victims of domestic violence. The nearest
8 such organization is located at _____.

9 (2) If you feel that there is a continuing danger to your
10 safety, please let me know and I will make all possible efforts to
11 insure your safety.

12 (3) Alaska law provides that you may file an application
13 with the nearest court for a court order protecting you and your chil-
14 dren from further harm. The forms to obtain the order are available at
15 the court. It is not necessary to have an attorney to obtain a court
16 order but one may be of help to you. If you cannot afford to hire an
17 attorney, you should contact the nearest Alaska Legal Services office
18 which is located at _____.

19 (4) Additionally, the victim/witness assistance program of
20 the Department of Law may be able to help you. The nearest district
21 attorney's office is located at _____.

22 * Sec. 12. AS 18.65.520(c) is amended to read:

23 (c) As used in this section

24 (1) "domestic violence" means a crime under AS 11.41 com-
25 mitted when the victim is [AGAINST] a spouse or [,] a former spouse
26 of the person who committed the crime, [OR] a member of the social unit
27 comprised of those living together in the same dwelling as the person
28 who committed the crime, or another person related within the second
29 degree by blood or marriage to the person who committed the crime;

1 (2) "peace officer" means a public servant vested by law
2 with a duty to maintain public order or to make arrests, whether the
3 duty extends to all offenses or is limited to a specific class of
4 offenses or offenders.

5 * Sec. 13. AS 22.20.130 is amended by adding a new subsection to read:

6 (c) Process issued under AS 09.55.600 or 09.55.610 shall be
7 promptly served and executed. The commissioner may designate a peace
8 officer to serve and execute process issued under AS 09.55.600 or
9 09.55.610. A person designated to serve process under this section has
10 the same authority and duty granted to the commissioner in the service
11 of the process and is subject to orders of the courts of the state in
12 the same manner as the commissioner. The commissioner is responsible
13 on his official bond for the acts of a person designated by him under
14 this section which are committed in the course of his designated duty.

15 * Sec. 14. AS 22.20.140 is amended by adding a new paragraph to read:

16 (4) "peace officer" means a public servant vested by law
17 with a duty to maintain public order or to make arrests, whether the
18 duty extends to all offenses or is limited to a specific class of
19 offenses or offenders.

20 * Sec. 15. AS 09.55.620(b) and AS 12.25.030(c) are repealed.

21
22
23
24
25
26
27
28
29