

SENATE CS FOR CS FOR HOUSE BILL NO. 44 (STATE AFFAIRS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered: 5/3/91

Referred: Judiciary

Sponsor(s): REPRESENTATIVES ULMER, Parnell, B.Davis, Boyer

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to domestic violence."

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

3 * Section 1. AS 11.56 is amended by adding a new section to read:

4 Sec. 11.56.740. VIOLATING A DOMESTIC VIOLENCE RESTRAINING ORDER. (a)

5 A person commits the crime of violating a domestic violence restraining order if

6 (1) the person knowingly violates a provision of an order issued under
7 AS 25.35.010(b) or 25.35.020 restraining the person from communicating directly or indirectly
8 with another; and

9 (2) at the time the restraining order was issued, the court made a finding that the
10 person had subjected another to domestic violence.

11 (b) Violation of this section is a class A misdemeanor.

12 * Sec. 2. AS 11.61.120(a) is amended to read:

13 (a) A person commits the crime of harassment if, with intent to harass or annoy another
14 person, that person

- 1 (1) insults, taunts, or challenges another person in a manner likely to provoke an
2 immediate violent response;
- 3 (2) telephones another and fails to terminate the connection with intent to impair
4 the ability of that person to place or receive telephone calls;
- 5 (3) makes repeated telephone calls at extremely inconvenient hours;
- 6 (4) makes an anonymous or obscene telephone call or a telephone call that
7 threatens physical injury; or
- 8 (5) subjects another person to offensive physical contact [; OR
- 9 (6) VIOLATES A PROVISION OF AN ORDER ISSUED UNDER
10 AS 25.35.010(b) OR 25.35.020 RESTRAINING THE RESPONDENT FROM
11 COMMUNICATING DIRECTLY OR INDIRECTLY WITH THE PETITIONER].

12 * Sec. 3. AS 11.61.200(a) is amended to read:

13 (a) A person commits the crime of misconduct involving weapons in the first degree if
14 the person

15 (1) knowingly possesses a firearm capable of being concealed on one's person
16 after having been convicted of a felony by a court of this state, a court of the United States, or
17 a court of another state or territory;

18 (2) knowingly sells or transfers a firearm capable of being concealed on one's
19 person to a person who has been convicted of a felony by a court of this state, a court of the
20 United States, or a court of another state or territory;

21 (3) manufactures, possesses, transports, sells, or transfers a prohibited weapon;

22 (4) knowingly sells or transfers a firearm to another whose physical or mental
23 condition is substantially impaired as a result of the introduction of an intoxicating liquor or drug
24 into that other person's body;

25 (5) removes, covers, alters, or destroys the manufacturer's serial number on a
26 firearm with intent to render the firearm untraceable;

27 (6) possesses a firearm on which the manufacturer's serial number has been
28 removed, covered, altered, or destroyed, knowing that the serial number has been removed,
29 covered, altered, or destroyed with the intent of rendering the firearm untraceable;

30 (7) violates AS 11.46.320 and, during the violation, possesses on the person a
31 firearm while under the influence of an intoxicating liquor or drug;

1 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on
2 premises or in a propelled vehicle in violation of a provision of an order issued under
3 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a deadly
4 weapon, other than an ordinary pocketknife; or

5 (9) communicates in person with another in violation of AS 11.56.740
6 [AS 11.61.120(a)(6)] and, during the communication, possesses on the person a deadly weapon,
7 other than an ordinary pocketknife.

8 * Sec. 4. AS 12.30.025 is amended to read:

9 Sec. 12.30.025. **RELEASE BEFORE TRIAL IN CASES INVOLVING DOMESTIC**
10 **VIOLENCE.** (a) In determining the conditions of release under AS 12.30.020 in cases involving
11 domestic violence, the court shall consider the following conditions and impose one or more
12 conditions it considers reasonably necessary to protect the alleged victim of the domestic
13 violence, including ordering the defendant

14 (1) not to subject the victim to further domestic violence;

15 (2) to vacate the home of the victim;

16 (3) not to contact the victim other than through counsel;

17 (4) to engage in [PERSONAL OR FAMILY] counseling; **if the court directs the**
18 **defendant to engage in personal counseling, the court shall provide in the order that the**
19 **counseling must propose alternatives to aggression if that type of counseling is available;**
20 **if the court directs the defendant to participate in family counseling, it shall make a finding**
21 **that family counseling will not result in additional domestic violence;**

22 (5) to refrain from the consumption of alcohol or the use of drugs.

23 (b) As used in this section, "domestic violence" means a crime specified in AS 11.41
24 when the victim is a spouse or a former spouse of the defendant; **a parent, grandparent, child,**
25 **or grandchild of the defendant;** [,] a member of the social unit comprised of those living
26 together in the same dwelling as the defendant; [,] or a person who is not a spouse or former
27 spouse of the defendant but who previously lived in a spousal relationship with the defendant **or**
28 **is in or has been in a dating, courtship, or engagement relationship with the defendant.**

29 * Sec. 5. AS 12.55.155(d) is amended by adding a new paragraph to read:

30 (17) in a conviction for assault or attempted assault or for homicide or attempted
31 homicide, the defendant acted in response to domestic violence perpetrated by the victim against

1 the defendant and the domestic violence consisted of aggravated or repeated instances of
2 assaultive behavior.

3 * Sec. 6. AS 12.55.185 is amended by adding a new paragraph to read:

4 (12) "domestic violence" has the meaning given in AS 25.35.060.

5 * Sec. 7. AS 18.65.520(c)(1) is amended to read:

6 (1) "domestic violence" means a crime under AS 11.41 when the victim is a
7 spouse or a former spouse of the person who committed the crime; a parent, grandparent,
8 child, or grandchild of the person who committed the crime; [,] a member of the social unit
9 comprised of those living together in the same dwelling as the person who committed the crime;
10 [,] or another person who is not a spouse or former spouse of the person who committed the
11 crime but who previously lived in a spousal relationship with the person who committed the
12 crime or is in or has been in a dating, courtship, or engagement relationship with the person
13 who committed the crime;

14 * Sec. 8. AS 18.66.900(3) is amended to read:

15 (3) "domestic violence" means a crime specified in AS 11.41 when the victim is
16 a spouse or a former spouse of the defendant; a parent, grandparent, child, or grandchild of the
17 defendant; a member of the social unit comprised of those living together in the same dwelling
18 as the defendant; or a person who is not a spouse or former spouse of the defendant but who
19 previously lived in a spousal relationship with the defendant or is in or has been in a dating,
20 courtship, or engagement relationship with the defendant.

21 * Sec. 9. AS 25.35.010(b) is amended to read:

22 (b) Upon receiving a petition under (a) of this section, the court shall schedule a hearing
23 and shall provide at least 10 days' [DAYS] notice to the respondent of the hearing and of the
24 respondent's right to appear and to be heard either in person or by attorney. If, at the hearing,
25 the court finds that the petitioner has been subjected to domestic violence by the respondent, the
26 court may issue any order it determines to be necessary for the protection of the health, safety,
27 or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this
28 subsection may include provisions that

- 29 (1) restrain the respondent from subjecting the petitioner to domestic violence;
30 (2) direct the respondent to vacate the home of the petitioner;
31 (3) restrain the respondent from communicating directly or indirectly with the

1 petitioner;

2 (4) direct the respondent to pay support for the petitioner or for a minor child in
3 the care of the petitioner if there is an independent legal obligation of the respondent to support
4 the petitioner or the child;

5 (5) award temporary custody of a minor child to the petitioner;

6 (6) direct the respondent to pay medical expenses incurred by the petitioner as
7 a result of the domestic violence;

8 (7) direct the respondent to engage in [PERSONAL OR FAMILY] counseling;
9 if the court directs the respondent to engage in personal counseling, the court shall provide
10 in the order that the counseling must propose alternatives to aggression if that type of
11 counseling is available; if the court directs the respondent to participate in family
12 counseling, it shall make a finding that family counseling will not result in additional
13 domestic violence [OR MEDIATION];

14 (8) restrain the respondent from entering a propelled vehicle in the possession of
15 or occupied by the petitioner.

16 * Sec. 10. AS 25.35.010 is amended by adding a new subsection to read:

17 (e) Except for a restraining order that prohibits the petitioner from communicating
18 directly or indirectly with the respondent, the court may not issue an order restraining a petitioner
19 under this section unless the court finds that the respondent has been subjected to domestic
20 violence by the petitioner. The court may not issue a restraining order that prohibits the
21 petitioner from communicating directly or indirectly with the respondent unless the court finds
22 that

23 (1) the respondent has been subjected to domestic violence by the petitioner; or

24 (2) there is other good cause based on extraordinary circumstances of the case as
25 supported by specific findings of fact by the court.

26 * Sec. 11. AS 25.35.020(c) is amended to read:

27 (c) An order issued under this section may include a provision described in
28 AS 25.35.010(b). Except for a restraining order that prohibits the petitioner from
29 communicating directly or indirectly with the respondent, the court may not issue an order
30 restraining a petitioner under this section unless the court finds that the respondent has
31 been subjected to domestic violence by the petitioner. The court may not issue a restraining

1 order that prohibits the petitioner from communicating directly or indirectly with the
2 respondent unless the court finds that the respondent has been subjected to domestic
3 violence by the petitioner or that there is other good cause based on extraordinary
4 circumstances of the case as supported by specific findings of fact by the court [, EXCEPT
5 AN ORDER FOR MEDIATION]. The order shall be endorsed with the date and hour of
6 issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state
7 the reason that it was granted without notice. The order shall remain in effect for a period not
8 to exceed 20 days, unless extended by the court for good cause. The reasons for the extension
9 shall be entered in the records of the court.

10 * Sec. 12. AS 25.35.060 is amended to read:

11 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic violence" means a crime
12 under AS 11.41 when the victim is a spouse or a former spouse of the respondent; a parent,
13 grandparent, child, or grandchild of the respondent; a member of the social unit comprised of
14 those living together in the same dwelling as the respondent; or a person who is not a spouse or
15 former spouse of the respondent but who previously lived in a spousal relationship with the
16 respondent or is in or has been in a dating, courtship, or engagement relationship with the
17 respondent.

18 * Sec. 13. AS 33.30.161(b) is amended to read:

19 (b) To be eligible to serve time in a correctional restitution center, the prisoner
20 (1) must be employable or eligible to work on community service projects
21 approved by the commissioner and agree to secure employment or participate in community
22 service projects and obey the rules of the center;
23 (2) may not be serving a sentence for conviction of an offense
24 (A) involving violence or the use of force;
25 (B) under AS 11.41.320, 11.41.330, or AS 11.56.740 [AS 11.61.120(a)(6)];
26 (3) may not have been convicted of a felony offense, in the state or another
27 jurisdiction, involving violence or the use of force; and
28 (4) may not have been convicted of an offense under AS 11.41.410 - 11.41.470
29 or an offense in the state or another jurisdiction having elements substantially identical to an
30 offense under AS 11.41.410 - 11.41.470.