

HB

392

# COMMITTEE REPORT

## HOUSE

2/13  
Rules

3/14/79

FURTHER:

Date: \_\_\_\_\_

Mr. Speaker:

The Committee on JUDICIARY has had HB 392

"An Act relating to domestic violence; and amending Rules, 3, 65, and 76, Rules of Civil Procedure."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for HB 392  same title  
 new title
- and recommends do pass
- AND attaches a "Letter of Intent"  New Fiscal Note
- reports it back without recommendation
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

Malone

\_\_\_\_\_

Henry Martin

Billards, Han

Patrick W. O'Connell

T. Buchholdt

W. De. Anderson

[Signature]

[Signature]

\_\_\_\_\_

[Signature]

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Charles Han

CHAIRMAN

AMENDMENT

OFFERED IN THE HOUSE:

By: Judiciary

To: \_\_\_\_\_ HOUSE BILL No. CSHB 392

SENATE BILL No. \_\_\_\_\_

PAGE: \_\_\_\_\_

LINE: \_\_\_\_\_

Page 1, Line 18:

Add the following new material after the word "officer":  
", or until requested to leave by the victim of domestic  
violence;"

Page 2, line 15:

Add the following new material:  
(3) immediately "leave the premise and refrain from  
further involvement in the incident."

HB 392 - Domestic  
Violence  
Friday

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Clocks in

Dept. Law - Barry &  
John Jensen? ArtP.

Caren Robinson

~~Black Board~~

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Vern Stillner?  
JDD - Pub. Safety  
Janice Bates

Joan Kasson  
Courts - ASHA?



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capito:  
Juneau, Alaska 99811

#### MEMORANDUM

TO: House Judiciary Committee Members

FROM: Rochelle Plotnick *Rochelle Plotnick*

DATE: January 11, 1980

RE: Domestic Violence

On October 4th & 5th I attended the Northwest Conference on Violence Against Women and Children in Seattle, Washington. The purpose of this memo is to highlight what I considered to be worthwhile for you.

Most of the conference participants were feminists, with advanced degrees in social work, sociology, or psychology. The program included several media presentations, a wide variety of workshops to choose from, and two keynote speakers who have done extensive research in the field of domestic violence. (see attached program). The conference was sponsored by Harborview Medical Center and the University of Washington.

Last spring the Washington State Legislature passed two bills regarding domestic violence. One relates to the legal aspects of domestic violence and the other relates to shelters. (copies are attached).

Two therapists experienced in the treatment of both batterers and victims of battering, prepared a matrix showing behavioral characteristics of domestic violence. It is an excellent summary of what the workshops stressed. (copies are attached).

The final topic that deserves attention is pornography and violence against women. At this workshop we were shown record album covers, billboards, fashion magazines, films and other magazines with women displayed as sexual objects, rather than human beings. They were shown in submissive stances, being chained, tied or beaten. The purpose of this display was to explain the negative effects of pornography on women. By allowing it to happen, the public is accepting women in these degrading roles. It subconsciously tells people it is okay. With Alaska having the highest rape rate in the nation in 1977, this may be an area needing attention.

If anyone has any questions or wants to discuss the conference with me, I will be delighted to do so.

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Conference on  
Violence Against Women and Children

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# PROGRAM



Program

Thursday, October 4

8:00-9:00 a.m.	<u>Registration and Coffee</u> Please select your choices for workshops on sign-up sheets	<u>Lobby</u>
9:00-9:30 a.m.	<u>Opening Remarks</u> Karil Klingbeil, MSW, ACSW, Director, Social Services, Harborview Medical Center Scott Briar, DSW, Dean, School of Social Work, University of Washington Norm Maleng, King County Prosecuting Attorney	<u>Auditorium</u>
9:30-10:30 a.m.	<u>Keynote Speaker</u> Diana Russell, Ph.D., Associate Professor of Sociology, Mills College, Oakland, California	<u>Auditorium</u>
10:30-11:00 a.m.	<u>Questions and Answers</u>	
11:00-12:00 a.m.	<u>Special Media Presentation</u> (See Media Schedule)	<u>Common Room</u>
12:00-1:00 p.m.	<u>Lunch</u> Speaker: Jennifer James, Ph.D. Psychiatry and Behavioral Science Dept. University of Washington "Juvenile Prostitution"	<u>Main Dining Room</u>
1:00-2:30 p.m.	<u>Thursday Workshops - FIRST SESSION</u> (See complete listing)	
2:30-3:00 p.m.	<u>Break</u> <u>Media Presentation</u> (See Media Schedule)	<u>Lobby</u> <u>Common Room</u>
3:00-4:30 p.m.	<u>Thursday Workshops - SECOND SESSION</u> (See complete listing)	
7:00-9:00 p.m.	<u>Special Evening Presentation</u> Speakers: Diana Russell, Ph.D. Lenore Walker, Ed.D.	<u>Kane Hall 210</u> <u>University of Washington</u>

free to participants  
3.00 to general public  
2.00 to students  
(with I.D.)

Program  
Friday, October 5

8:00-9:00 a.m.	<u>Coffee</u>	<u>Lobby</u>
9:00-10:00 a.m.	<u>Keynote Speaker</u> Lenora Walker, Ed.D., Associate Professor of Psychology at Colorado Women's College	<u>Auditorium</u>
10:00-10:30 a.m.	<u>Break and/or</u> <u>Media Presentation (See Media Schedule)</u>	<u>Lobby</u> <u>Common Room</u>
10:30-12:00 Noon	<u>Friday Workshops - FIRST SESSION</u>	
12:00-1:00 p.m.	<u>Luncheon with special discussion tables *</u>	<u>Main Dining</u> <u>Room</u>
1:00-2:30 p.m.	<u>Friday Workshops - SECOND SESSION</u>	
2:30-3:00 p.m.	<u>Break</u>	<u>Lobby</u>
3:00-4:30 p.m.	<u>Panel and Closing Remarks</u> Moderator: Karil Klingbeil, MSW, ACSW	<u>Auditorium</u>

\* You may choose to join others at a luncheon table organized around a special area of concern.

Legal Assistance- Kay Frank  
Prevention of Violence-Py Bateman  
Tattered Child- Andrea Rabinowitz  
Religious Issues-Marie Fortune  
and others

THURSDAY, October 4

FIRST WORKSHOP SESSION

1:00-2:30 p.m.

(Please select one of the following workshops)

1. "FEMINIST THERAPY" Auditorium  
Coordinator: Lenore Walker, Ed.D.  
This workshop presented by one of our keynote speakers will focus on the issues of treatment of battered women. Dr. Walker, author of Battered Women as Victims has been involved in research of the battering syndrome.
  
2. "LEGAL ADVOCACY AND LEGISLATIVE ISSUES" Connolly Commons  
Coordinator: Kay Frank, Abused Women's Project  
Ms. Frank of Evergreen Legal Services will lead a panel discussing the current relationship of the criminal justice system and the social services in the Seattle area. The panel members are: Sgt. Verlin Judd, Seattle Police Department; Patrol Officer Rosa Melendez; and Assistant City Attorney, Sally Buckley.
  
3. "RELIGIOUS ISSUES FOR VICTIMS AND OFFENDERS" Private Dining Room  
Coordinator: Reverend Marie Fortune, Prevention of Sexual Violence Project  
This workshop will focus on religious counseling issues raised by victims and offenders of sexual and domestic violence; suggested responses to these issues (discussion and role play); and cooperative efforts between social service and religious professionals. Reverend Fortune will have Denise Hormann and Joan Waldo as co-presentors.
  
4. "ANGER REDUCTION" B-101  
Coordinator: Anne Ganley, Ph.D.  
Dr. Ganley will introduce a treatment model developed at the American Lake Veteran's Administration Hospital. This workshop will introduce theoretical views on aggression, basic concepts of anger control, and adaptations of anger control for men who batter.
  
5. "SEXUAL ABUSE OF CHILDREN" B-102  
Coordinator: Lucy Berliner, MSW, Sexual Assault Center, HMC  
The format of this workshop will be to present the material in three parts: Ms. Berliner will give an overview of how clinicians see the problem of sexual abuse in social and legal terms; Elise Ernst of the Eastside Mental Health Center will address the clinical issues for victims, and Roger Wolfe of NW Treatment Associates will speak to the subject of offenders.

6. "VIOLENCE AGAINST OLDER WOMEN"

B-203

Coordinator: Stephanie FallCreek, MSW, Wallingford Wellness Project

This workshop will address the issues of sexual and physical abuse of older women, often overlooked in the study of violence against women. Ms. FallCreek is the Director of the Wallingford Wellness Project. Nancy Hooyman, DSW, coordinator of the Project on Aging will be a co-presenter.

7. "PLANNING FOR LONG TERM TREATMENTS, NETWORKS, AND SHELTERS"

B-201

Coordinator: Ginny Crow, MSW, Abused Women's Network

Located at The Women's Institute, the Abused Women's Network has been working with battered women through the use of support groups. This workshop will speak to the issues of providing long term supports as well as temporary shelters. The formation of state-wide networks will also be addressed as a necessary component of planning for the treatment of victims of violence. Ms. Crow's co-presenters are Pamm Axtell and Carol Richards.

FRIDAY, October 5

FIRST WORKSHOP SESSION

10:30 a.m. - 12:00 noon

(Please select one of the following workshops)

1. "PORNOGRAPHY AND VIOLENCE AGAINST WOMEN" Auditorium  
Coordinator: Diana Russell, Ph.D., Associate Professor of Sociology, Mills College  
In addition to giving the keynote address, Dr. Russell will present this workshop. Her research and writings in this area are extensive and she has been deeply involved in exposing the extent to which women are victimized by violence on an international scale. Lynne Iglitzin, Ph.D. Associate Director, Undergraduate Studies will be a respondent.
2. "VIOLENCE AGAINST MINORITY WOMEN" B-101  
Coordinator: Myrtle Sorenson, MSW, Sexual Assault Center Harborview Medical Center  
This workshop will address the issues of violence as it impacts on minority women.
3. "ADVOCACY FOR ABUSED WOMEN AND CHILDREN" Private Dining Room and film in Common Room  
Coordinator: Doris Stevens, MSW, ACSW, Sexual Assault Center Harborview Medical Center  
This workshop will address advocacy techniques for assisting women and children in pursuing criminal prosecution. Also to be presented are advocacy strategies for other systems such as hospitals, social service agencies, and mental health centers. Ms. Stevens will be assisted by Evelyn Brom of Seattle Rape Relief, an Advocacy Specialist.
4. "CHILDREN AND VIOLENCE" B-201  
Coordinator: Shirley Anderson, MD, MPH, Pediatrics Consultant, Sexual Assault Center  
This workshop will discuss the parameters of violence against children, assessment and treatment with an advocacy perspective, and directions for change including program development and community coordination. Dr. Anderson will present this workshop with Richard Westgard, MSW.
5. "GROUP THERAPY" B-102  
Coordinator: Karil Klingbeil, MSW, ACSW, Director, Social Services Harborview Medical Center  
This workshop will address the area of techniques and skills in working with groups of victims of domestic violence. Sandi Armstrong, MSW, from In-Patient Psychiatry Services Of Harborview Medical Center will be a co-presenter.

6. "VIOLENCE AND SUBSTANCE ABUSE"

Connolly Commons

Coordinator: Vicki Boyd, Ph.D., Group Health Cooperative

The relationship of drug and alcohol abuse to violence against women and children will be presented by Dr. Boyd and Lorie Dwinell, MSW. Both presenters are experienced group therapists especially concerned with the treatment of women who have been battered, and/or involved in alcohol abuse.

7. "COMMUNITY-BASED TREATMENT OF SEXUAL OFFENDERS"

B-203

Coordinator: Irwin Dreiblatt, Ph.D., Pacific Psychological Services

An introduction to the issues involved in the community-based treatment of sexual offenders will be the focus of this workshop as well as an overview of evaluation and treatment. There will be a case presentation and discussion.

Schedule  
Media Presentations

These special presentations will be shown in the Common Room. It is not necessary to sign-up to attend.

Thursday, October 4

11:00 a.m. - 12:00 noon

Presenter: Denise Hormann, MSW  
Slide Presentation on "Images of Violence  
Against Women in Advertising"

2:30 p.m. - 3:00 p.m.

Videotape: "Women Speak Out", a tape about  
women who have been battered.

Friday, October 5

10:00 a.m. - 10:30 a.m.

Film: "Incest - the Victim Nobody Believes"

1:00 p.m. - 2:30 p.m.

Presenter: Officer Lynn Edwards, UW Police  
Dept.  
Film: "Interview with Rape Victim"

SUBSTITUTE HOUSE BILL 554 - PASSED WASHINGTON STATE LEGISLATURE MAY 1979

AN ACT Relating to shelters for victims of domestic violence; adding a new chapter to Title 70 RCW; creating a new section; and making an appropriation.  
BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION Section 1. The legislature finds that domestic violence is an issue of growing concern at all levels of government and that there is a present and growing need to develop innovative strategies and services which will ameliorate and reduce the trauma of domestic violence. Research findings show that domestic violence constitutes a significant percentage of homicides, aggravated assaults, and assaults and batteries in the United States. Domestic violence is a disruptive influence on personal and community life and is often interrelated with a number of other family problems and stresses. Shelters for victims of domestic violence are essential to provide protection to victims from further abuse and physical harm and to help the victim find long-range alternative living situations, if requested. Shelters provide safety, refuge, advocacy, and helping resources to victims who may not have access to such things if they remain in abusive situations.

The legislature therefore recognizes the need for the state-wide development and expansion of shelters for victims of domestic violence.

NEW SECTION Section 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Shelter" means a place of temporary refuge, offered on a twenty-four hour, seven day per week basis to victims of domestic violence and their children.

(2) "Domestic violence" is a categorization of offenses, as defined in section 2, chapter 105, Laws of 1979 1st ex. . committed by one cohabitant against another.

(3) "Department" means the department of social and health services.

(4) "Victim" means a cohabitant who has been subjected to domestic violence.

(5) "Cohabitant" means a person who is married or who is cohabitating with a person of the opposite sex like husband and wife at the present or at sometime in the past. Any person who has one or more children in common with another person, regardless of whether they have been married or lived together at any time, shall be treated as a cohabitant.

NEW SECTION Section 3. The department of social and health services, in consultation with individuals or groups having experience and knowledge of the problems of victims of domestic violence, shall:

(1) Establish minimum standards for shelters applying for grants from the department under this chapter. Classifications may be made dependent upon size, geographic location, and population needs;

(2) Receive grant applications for the development and establishment of shelters for victims of domestic violence;

(3) Distribute funds, within forty-five days after approval, to those shelters meeting departmental standards;

(4) Evaluate biennially each shelter receiving departmental funds for compliance with the established minimum standards; and

(5) Review the minimum standards each biennium to ensure applicability to community and client needs.

NEW SECTION Section 4. Minimum standards established by the department under section 3 of this act shall ensure that shelters receiving grants under this chapter provide services meeting basic survival needs, where not provided by other means, such as, but not limited to, food, clothing, housing, safety, security, client advocacy, and counseling. These services

shall be problem-oriented and designed to provide necessary assistance to the victims of domestic violence and their children.

NEW SECTION Section 5. The department shall contract, where appropriate, with public or private nonprofit groups or organizations with experience and expertise in the field of domestic violence to:

(1) Develop and implement an educational program designed to promote public and professional awareness of the problems of domestic violence and of the availability of services for victims of domestic violence. Particular emphasis should be given to the education needs of law enforcement agencies, the legal system, the medical profession, and other relevant professions that are engaged in the prevention, identification, and treatment of domestic violence;

(2) Maintain a directory of temporary shelters and other direct service facilities for the victims of domestic violence which is current, complete, detailed, and available, as necessary, to provide useful referral services to persons seeking help on an emergency basis;

(3) Create a state-wide toll-free telephone number that would provide information and referral to victims of domestic violence;

(4) Provide opportunities to persons working in the area of domestic violence to exchange information; and

(5) Provide training opportunities for both volunteer workers and staff personnel.

NEW SECTION Section 6. The department shall prepare an annual report to the legislature which shall include but not be limited to:

(1) Data reflecting the geographic incidence of domestic violence in the state, indicating the number of cases officially reported as well as an assessment of the degree of unreported cases;

(2) The number of persons and relevant statistical data, where possible, of persons treated or assisted by shelters receiving state funds;  
and

(3) A listing of potential and feasible prevention efforts, the estimated cost of providing the prevention services, and the projected benefits of providing the services.

The department may contract, where applicable, for the information required by this section.

NEW SECTION Section 7. Shelters receiving state funds under this chapter shall:

(1) Make available shelter services to any person who is a victim of domestic violence and to that person's children;

(2) Encourage victims, with the financial means to do so, to reimburse the shelter for the services provided;

(3) Recruit, to the extent feasible, persons who are former victims of domestic violence to work as volunteers or staff personnel. An effort shall also be made to provide bilingual services;

(4) Provide prevention and treatment programs to victims of domestic violence, their children and, where possible, the abuser;

(5) Provide a day program or drop-in center to assist victims of domestic violence who have found other shelter but who have a need for support services.

NEW SECTION Section 8. The department shall consult in all phases with persons and organizations having experience and expertise in the field of domestic violence.

NEW SECTION Section 9. The department is authorized, under this chapter and the rules adopted to effectuate its purposes, to make available grants awarded on a contract basis to public or private nonprofit agencies, organizations, or individuals providing shelter services meeting minimum standards established by the department. Consideration as to need, geographic location, population ratios, and the extent of existing services shall be made in the award of grants. The department shall provide technical assistance to any nonprofit organization desiring to apply for the contracts if the

Hugh was excused  
from the meeting -  
he is meeting  
with the governor  
right now

organization does not possess the resources and expertise necessary to develop and transmit an application without assistance.

NEW SECTION Section 10. Fifty percent of the funding for shelters receiving grants under this chapter must be provided by one or more local, municipal, or county source, either public or private. Contributions in-kind, whether materials, commodities, transportation, office space, other types of facilities, or personal services, may be evaluated and counted as part of the required local funding.

The department shall seek, receive, and make use of any funds which may be available from federal or other sources in order to augment state funds appropriated for the purpose of this chapter, and shall make every effort to qualify for federal funding.

NEW SECTION Section 11. General assistance or aid to families with dependent children payments shall be made to otherwise eligible individuals who are residing in a secure shelter, a housing network or other shelter facility which provides shelter services to persons who are victims of domestic violence. Provisions shall be made by the department for the confidentiality of the shelter addresses where victims are residing.

NEW SECTION Section 12. A shelter shall not be held liable in any civil action for denial or withdrawal of services provided pursuant to the provisions of this chapter.

NEW SECTION Section 13. There is appropriated from the general fund to the department of social and health services for the 1979-1981 biennium the sum of one million dollars, or so much as may be necessary, to carry out the purposes of this act. Seven hundred thousand dollars of the amount appropriated shall be used for grants to shelters under section 9 of this act. The remaining three hundred thousand dollars shall be used to fund sections 3, 5, and 6 of this act.

NEW SECTION Section 14. Sections 2 through 12 of this act shall constitute a new chapter in Title 70 RCW.

NEW SECTION Section 15. If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

AN ACT relating to domestic violence; adding a new chapter to Title 10 RCW; creating new sections; and prescribing penalties.

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

NEW SECTION Section 1. The purpose of this act is to recognize the importance of domestic violence as a serious crime against society and to assure the victim of domestic violence the maximum protection from abuse which the law and those who enforce the law can provide. The legislature finds that the existing criminal statutes are adequate to provide protection for victims of domestic violence. However, previous societal attitudes have been reflected in policies and practices of law enforcement agencies and prosecutors which have resulted in differing treatment of crimes occurring between co-habitants and of the same crimes occurring between strangers. Only recently has public perception of the serious consequences of domestic violence to society and to the victims led to the recognition of the necessity for early intervention by law enforcement agencies. It is the intent of the legislature that the official response to cases of domestic violence shall stress the enforcement of the laws to protect the victim and shall communicate the attitude that violent behavior is not excused or tolerated. Furthermore, it is the intent of the legislature that criminal laws be enforced without regard to whether the persons involved are or were married, cohabiting, or involved in a relationship.

NEW SECTION Section 2. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Cohabitant" means a person who is married or who is co-habiting with a person as husband and wife at the present time or at some time in the past. Any person who has one or more children in common with another person, regardless of whether they have been married or lived

together at any time, shall be treated as a cohabitant.

(2) "Domestic Violence" includes but is not limited to any of the following crimes when committed by one cohabitant against another:

- (a) Assault in the first degree (RCW 9A.36.010);
- (b) Assault in the second degree (RCW 9A.36.020);
- (c) Simple assault (RCW 9A.36.040);
- (d) Reckless endangerment (RCW 9A.36.050);
- (e) Coercion (RCW 9A.36.070);
- (f) Burglary in the first degree (RCW 9A.52.020);
- (g) Burglary in the second degree (RCW 9A.52.030);
- (h) Criminal trespass in the first degree (RCW 9A.52.070);
- (i) Criminal trespass in the second degree (RCW 9A.52.080);
- (j) Malicious mischief in the first degree (RCW 9A.48.070);
- (k) Malicious mischief in the second degree (RCW 9A.48.080);
- (l) Malicious mischief in the third degree (RCW 9A.48.090);
- (m) Kidnapping in the first degree (RCW 9A.40.020);
- (n) Kidnapping in the second degree (RCW 9A.40.030);
- (o) Unlawful imprisonment (RCW 9A.40.040).

(3) "Victim" means a cohabitant who has been subjected to domestic violence.

NEW SECTION Section 3. (1) All training relating to the handling of domestic violence complaints by law enforcement officers shall stress enforcement of criminal laws in domestic situations, availability of community resources, and protection of the victim. Law enforcement agencies and community organizations with expertise in the issue of domestic violence shall cooperate in all aspects of such training.

(2) The primary duty of peace officers, when responding to a domestic violence situation, is to enforce the laws allegedly violated and to protect the complaining party.

(3) (a) When a peace officer responds to a domestic violence call and has probable cause to believe that a crime has been committed, the peace officer may exercise arrest powers with reference to the criteria in RCW 10.31.100. The officer shall notify the victim of the victim's rights to initiate a criminal proceeding in all cases where the officer has not exercised arrest powers or decided to initiate criminal proceedings by citation or otherwise. The parties in such cases shall also be advised of the importance of preserving evidence.

(b) A peace officer responding to a domestic violence call shall take a complete offense report including the officer's disposition of the case.

(4) The peace officer may offer, arrange, or facilitate transportation for the victim to a hospital for treatment of injuries or to a place of safety or shelter.

(5) The law enforcement agency shall forward the offense report to the appropriate prosecutor as soon as practicable, if there is probable cause to believe that an offense has been committed.

(6) Each law enforcement agency shall make as soon as practicable a written record and shall maintain records of all incidences of domestic violence reported to it.

(7) Records kept pursuant to subsections (3) and (6) of this section shall be made identifiable by means of a departmental code for domestic violence.

NEW SECTION Section 4. (1) Because of the serious nature of domestic violence, the court in domestic violence actions:

(a) Shall not dismiss any charge or delay disposition because of concurrent dissolution or other civil proceedings;

(b) Shall not require proof that either party is seeking a dissolution of marriage prior to instigation of criminal proceedings;

(c) Shall waive any requirement that the victim's location be disclosed to any person, other than the attorney of a criminal defendant, upon

a showing that there is a possibility of further violence; PROVIDED, That the court may order a criminal defense attorney not to disclose to his client the victim's location; and

(d) Shall identify by any reasonable means on docket sheets those criminal actions arising from acts of domestic violence.

(2) Because of the likelihood of repeated violence directed at those who have been victims of domestic violence in the past, when any defendant charged with a crime involving domestic violence is released from custody before trial on bail or personal recognizance, the court authorizing the release may prohibit the defendant from having any contact with the victim. Wilful violation of a court order issued under this section is a misdemeanor. The written order releasing the defendant shall contain the court's directives and shall bear the legend: Violation of this order is a criminal offense under chapter 9A RCW and is also subject to civil contempt proceedings. A certified copy of such order shall be provided to the victim.

NEW SECTION Section 5. When a defendant is found guilty of a crime and a condition of the sentence restricts the defendant's ability to have contact with the victim, such condition shall be recorded and a written certified copy of that order shall be provided to the victim.

NEW SECTION Section 6. The public attorney responsible for making the decision whether or not to prosecute shall advise the victim of that decision within five days, and, prior to making that decision shall advise the victim, upon the victim's request, of the status of the case. Notification to the victim that charges will not be filed shall include a description of the procedures available to the victim in that jurisdiction to initiate a criminal proceeding.

NEW SECTION Section 7. A peace officer shall not be held liable in any civil action for an arrest based on probable cause, enforcement in good faith of a court order, or any other action or omission in good faith

under this chapter arising from an alleged incident of domestic violence brought by any party to the incident.

NEW SECTION Section 8. Sections 2 through 7 of this act shall constitute a new chapter in Title 10 RCW.

NEW SECTION Section 9. If any provisions of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

# BEHAVIORAL CHARACTERISTICS OF DOMESTIC VIOLENCE

Vicki D. Boyd, Ph.D.; Karil S. Klingbell, M.S.W.

Revised, 1979

Seattle, Washington

BATTERER	BATTERED MATE	CHILDREN
<i>Batterers are found in all socio-economic levels, all educational, racial, age groups</i>	<i>Battered mates are found in all socio-economic levels, all educational, racial, age groups</i>	<i>Children of domestic violence are found in all socio-economic levels, educational, racial and age groups</i>
The batterer is characterized by	The battered mate is characterized by	Children in battering homes exhibit
... poor impulse control — explosive temper — limited tolerance for frustration	... long suffering, martyr-like endurance of frustration.	... a combination of limited tolerance poor impulse control and martyr-like long suffering
... stress disorders and psychosomatic complaints — sophistication of symptoms and success at masking dysfunction vary with level of social and educational sophistication	... blatant depressive and/or hysterical symptoms — stress disorders and psychosomatic complaints	... depression, much stress and psychosomatizing, absences from school, pre-delinquent and delinquent behavior
... emotional dependency — subject to secret depressions known only to family	... economic and emotional dependency — subject to depression, high risk for secret drugs and alcohol, home accidents	... economic and emotional dependency, high risk for alcohol/drugs, sexual acting out, running away, isolation, loneliness, fear
... limited capacity for delayed reinforcement — very "now" oriented	... unlimited patience for discovery of "magic combination" to solve marital and battering problems — "travels miles" on tiny bits of reinforcement	... combination of poor impulse control and continual hopefulness that situation will improve
... insatiable ego needs — quality of childlike narcissism (not generally detectable to people outside family group)	... unsure of own ego needs — defines self in terms of family, job, etc.	... very shaky definition of self — grappling with child-like responses of parents for modeling — poor definition of self and/or defines self in parenting role
... low self-esteem — perceived unachieved ideals and goals for self — disappointment in career even if successful by others' standards	... low self-esteem — continued faith and hope battering mate will get "lucky" break	... low self-esteem — sees self and siblings with few options or expectations to succeed
... qualities which suggest great potential for change and improvement, i.e., frequent "promises" for the future	... unrealistic hope that change is imminent — belief in "promises"	... mixture of hope/depression that there is no way out — peer group can be most important contact, if available
... perception of self as having poor social skills — describes relationship with mate as closest he has ever known — remains in contact with own family	... gradually increasing social isolation, including loss of contact with own family	... increased social isolation — increased peer isolation or complete identification with peers
... accusations against mate — jealousy — voices great fear of being abandoned or "cheated on"	... inability to convince partner of loyalty — futilely guards against accusations of "seductive" behavior toward others	... bargaining behavior with parents — gets into proving self as does mother

BATTERER	BATTERED MATE	CHILDREN
The batterer is characterized by	The battered mate is characterized by	Children in battering homes exhibit
... containment of mate and employment of espionage tactics against her (e.g., checks mileage and times errands) — cleverness depends on level of sophistication	... allowing containment or confinement/restriction by mate, interpreting as sign that partner "cares"	... increasing deceptiveness: lying, excuses for outings, stealing, cheating
... no sense of violating others' personal boundaries — accepts no blame for failures (marital, familial, or occupational) or for violence	... gradually losing sight of personal boundaries for self and children (unable to assess danger accurately) — accepts <i>all</i> blame	... poor definition of personal boundaries — violation of others' personal boundaries, blame-projections
... belief that his forcible behavior is aimed at securing the family nucleus (for the good of the family)	... belief that transient acceptance of violent behavior will ultimately lead to long term resolution of family problems	... little or no understanding of the dynamics of violence (often assumes violence to be the norm)
... apparently feeling no guilt on emotional level even after intellectual recognition	... emotional acceptance of guilt for mate's behavior — thinks mate "can't help it" — considers own behavior provocative	... self-blame (depending on age) for family feuding, separations, divorce, etc. — internal conflicts
... generational history of family violence	... generational history of family violence	... continuation of pattern of family violence pattern in own adulthood
... participation in pecking order battering	... participation in pecking order battering	... pecking order battering — kills animals, batters younger siblings and sometimes parents in later years
... assaultive skills which improve with age and experience accompanied by arise in danger potential and lethality risks	... learning which behavioral events will either divert or precipitate mate's violence but level of carelessness increases — judgment of lethality potential deteriorates over time	... use of violence as problem solving technique in school, with peers, with family (appears as early as preschool)
... demanding and often times assaultive role in sexual activities — sometimes punishes with abstinence — at times experiences impotence	... poor sexual self-image — assumption that role is to accept totally partner's sexual behavior (attempts to punish partner with abstinence result in further abuse)	... poor sexual image — uncertainty about appropriate behavior — confuses model identification — immaturity in peer relationships
... increase in assaultive behavior when mate is pregnant — pregnancy often marks the first assault	... being at high risk for assault during pregnancy	... higher risk for batterment (either as witnesses or victims) during mother's pregnancy
... exerting control over mate by threatening homicide and/or suicide — often attempts one or both when partner separates — known to complete either or both	... frequent contemplation of suicide — history of minor attempts — occasionally completes either suicide or homicide of partner	... heightened suicide attempts — increased thoughts of doing away with self and/or murdering parents — proneness to negligence and carelessness

HOUSE BILL NO. 392  
Proposed Amendments

Page 1, line 11-25:

Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer

has a reasonable belief [REASON TO BELIEVE] that an adult or an emancipated minor is a victim of domestic violence, the police officer shall use all reasonable means to prevent further domestic violence and to assure the safety of the victim, including

(1) remaining on the scene of the domestic violence as long as the officer believes that there would be a danger to the physical safety of the victim without the presence of the peace officer;

(2) assisting the victim in obtaining emergency medical treatment if the officer believes it is necessitated by an assault, including transportation to the emergency room of the nearest hospital or to the nearest health provider;

(3) if the officer considers it necessary, assisting the victim in removing to a safe place nearby, or to the nearest facility offering shelter to victims of domestic violence;

you from domestic violence and providing you with other necessary assistance.

Page 2, lines 22-29 and page 3, lines 1 and 2 should be deleted.

Page 6, lines 7-14, paragraph sec. 09.55.690.

CRIMINAL PENALTIES. (a) violations of an order described in AS 09.55.660(a)(1), (2) or (3) is a class B misdemeanor [PUNISHABLE BY IMPRISONMENT FOR UP TO 60 DAYS, OR BY A FINE OF UP TO \$500, OR BY BOTH]. A second violation of an order described in AS 09.55.660(a)(1), (2) or (3) is punishable by a minimum sentence of imprisonment not less than 3 consecutive days [NOT LESS THAN THREE DAYS IMPRISONMENT]. The execution of a sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served, nor may imposition of sentence be suspended, except upon condition that the defendant be imprisoned for no less than the minimum period provided in this section.

RS:sl



*72 consecutive hours  
Imprisonment to get the crime  
Prevent problems  
Problems of the defendant  
losing his job.*

LA21 2232 13.37 JA01 0036 13.57 04/06/79

TO: REP. CHARLES H. PARR AND MEMBERS OF THE JUDICIARY COMMITTEE

FROM: 3 RESIDENTS OF WIC-CA CENTER WHO CANNOT GIVE THEIR  
NAMES (SEE EXPLANATION IN MESSAGE)  
WIC-CA CENTER, 331 FIFTH AVENUE, FBX 99701 - 452-2293

WE ARE RESIDENTS AT THE FAIRBANKS SHELTER. THERE ARE THREE OF  
US HERE, TOGETHER WITH OUR TEN CHILDREN. WE WOULD LIKE TO BE  
ABLE TO TELL YOU WHO WE ARE AND TO SIGN OUR NAMES TO THIS TESTIMONY,  
BUT IN ORDER TO PROTECT OURSELVES, OUR CHILDREN, AND THE WOMEN AT WICCA  
WHO HAVE HELPED US, WE CANNOT.

WE AT THE SHELTER HAVE A COMMON GOAL, A COMMON DREAM: TO BE FREE  
OF FEAR AND VIOLENCE. THIS IS NOT THE FIRST TIME ANY OF US HAVE  
LOOKED TO THIS DREAM. WE WANT TO BE ABLE TO DECLARE OUR INDEPENDENCE  
AND FREEDOM FROM FEAR. BUT THE SYSTEM THROUGH WHICH THIS DREAM  
MUST BE REALIZED IS MYSTIFYING, INTIMIDATING, DISCOURAGING, AND  
UNSYMPATHETIC TO OUR NEEDS.

WE HAVE READ HB 392. WE ARE SENDING THIS WIRE IN SUPPORT OF THAT  
BILL--AND FOR OUR FUTURE'S SAKE. FBX LIO/TC/ EOM

LA21 2266 13.41 JA01 0037 13.57 04/06/79

TO: REP. CHARLES PARR AND MEMBERS OF THE JUDICIARY COMMITTEE  
FROM: CARLA SLAUGHTER, P.O. BOX 2541, FBX 99707  
452-2293 (8AM-6PM M-F)

THIS MESSAGE IS BEING SENT IN SUPPORT OF HB 392. THE ISSUE  
OF DOMESTIC VIOLENCE HAS LONG BEEN IGNORED BY THE COURT  
SYSTEM, LAW ENFORCEMENT AGENCIES, AND THE PUBLIC AT LARGE. THE  
NUMBER OF BATTERED WOMEN IN FAIRBANKS IS STAGGERING. BATTERED  
WOMEN AND THEIR CHILDREN NEED THE SUPPORT AND ASSISTANCE PROVIDED  
BY THIS BILL TO BE FREE, INDEPENDENT, AND SELF SUFFICIENT. I  
URGE YOUR SUPPORT OF THIS BILL. FBX LIO/TC/ EOM

LA21 2273 13.42 JA01 0038 13.57 04/06/79

STELLA FROM TRUDY

I WILL BE SENDING 5 MORE MESSAGES TO REP. PARR CONCERNING  
THIS BILL./TC/ EOM

LA21 2304 13.46 JA01 0039 13.57 04/06/79

TO: REP. CHARLES PARR AND MEMBERS OF THE JUDICIARY COMMITTEE

FROM: MARI L. OGIMACHI, 532 6TH AVENUE, FBX 99701 - 456-7415

RE: HB 392

LA21 2336 13.50 JA01 0041 13.57 04/06/79

TO: REP. CHARLIE PARR

FROM: KAREN KING, APT. 753 I NMSH, U OF A, FBX 99701 (NO PHONE)  
RE: HB 392

ASSAULT AND BATTERY HAS LONG BEEN RECOGNIZED AS A CRIME. NOT RECOGNIZED IS THE RIGHT WOMEN HAVE TO BE FROM ASSAULT AND BATTERY BY THEIR OWN HUSBANDS. I SUPPORT HB 392 AND URGE YOU TO SUPPORT IT.

ASSAULT AND BATTERY BY HUSBANDS ON WIVES NEEDS THIS ATTENTION AND CONSIDERATION. ALL COSTS FOR SUCH ACTIONS AS ENDORSED BY THIS BILL CAN AND WILL BE WORKED OUT. BATTERED WOMEN NEED PROTECTION BY LAW. FBX LIO/TC/ EOM

I, MARI L. OGIMACHI, GIVE MY FULL SUPPORT TO HB 392 AND URGE YOU TO DO THE SAME. THE HB 392 PROVIDES A MUCH MORE EFFICIENT, LESS EXPENSIVE AND MOST OF ALL BETTER SERVICE TO OUR BATTERED WOMEN IN FAIRBANKS. THE TIME SAVED WITH THIS NEW BILL MAY MEAN THE DIFFERENCE BETWEEN A WOMAN BEING SAFE AND A WOMAN BEING VERY BADLY HURT. FBX LIO/TC/ EOM

LA21 2524 14.11 JA01 0049 14.11 04/06/79

TO: REP. CHARLIE PARR AND MEMBERS OF THE JUDICIARY COMMITTEE

FROM: SHIRLEY R. DEAN, SLY-EYE INVESTIGATIONS, P.O. BOX 10041,  
FBX 99701 - 468-2437 OR 452-2292 9-5 PM

RE: HB 392

I URGE SUPPORT AND RAPID PASSAGE OF THIS BILL. I FEEL IT IS URGENTLY NEEDED TO HELP VICTIMS OF FAMILY VIOLENCE. AS IT STANDS NOW LEGAL REMEDY FOR VICTIMS OF THIS CRIME ARE FEW AND FAR REACHING. WITH PASSAGE OF THIS BILL THE VICTIMS WOULD HAVE A CHANCE TO ESCAPE A VIOLENT SITUATION AND SAVE INJURY AND POSSIBLE LIVES! THANK YOU FOR YOUR ATTENTION FBX LIO/TC/ EOM

LA21 2482 14.07 JA01 0046 14.07 04/06/79

TO: REP. CHARLIE PARR

FROM: PAMELA THROOP, 123 BONNIE ST., FBX 99701 - 456-2247 OR 452-5131 X 138  
REPRESENTING FAIRBANKS CHAPTER NOW (PRESIDENT)

RE: HB 392

PLEASE NOTE THAT THE FAIRBANKS CHAPTER OF NOW WISHES TO MAKE KNOWN THEIR SUPPORT OF THIS BILL. TO DATE IT HAS BEEN DIFFICULT FOR VICTIMS OF DOMESTIC VIOLENCE TO OBTAIN A TEMPORARY RESTRAINING ORDER WITHOUT A GREAT DEAL OF MONEY, TIME AND INCONVENIENCE. PASSAGE OF THIS BILL WILL INSURE, FOR THESE VICTIMS, AN EASIER METHOD OF OBTAINING A RESTRAINING ORDER. THANK YOU. FBX LIO/TC/ EOM

LA21 2410 13.59 JA01 0043 14.03 04/06/79

TO: REP. CHARLIE PARR

FROM: BETTY GLOVER, 416C MODULAR UNITS, U OF A, FBX 99701 - 479-4155

RE: HB 392

AFTER READING THIS BILL, I FEEL THAT ALTHOUGH THERE MAY BE SOME AREAS STILL NEEDING WORK, THE BASIC PREMISE IS ONE SORELY NEEDED. IT IS VERY IMPORTANT THAT BOTH THE POLICE AND THE VICTIM OF N ASSAULT HAVE BASIC, WRITTEN GUIDELINES TO ENSURE THE SAFETY AND PROTECTION OF THE VICTIM AND ANY DEPENDENTS WHO MAY BE INVOLVED, AT ALL TIMES, NOT ONLY WHEN AN ATTORNEY OR THE COURT SYSTEM CAN BE CONTACTED DURING THE DAY. FBX LIO/TC/ EOM

1/17/80  
To: House Judiciary Committee  
Re: HB 392 An act relating to  
Domestic Violence

Suzanne Giudicello, Pres. Bd of Dir.  
Women in Crisis - Counseling & Assistance  
Fairbanks, AK 99701

Since I, and others from WIC-CA,  
have testified on this bill previously,  
I only wish to re-state briefly  
our support of this bill.

1) Victims of domestic violence  
have traditionally not received the  
same protection as victims of  
"public" violence or assault. Domest-  
ic violence, whether it is child  
abuse or spousal abuse, tends  
to be treated as a family problem  
& ignored by law enforcement.

2) The time required to obtain a  
TRO, the expense involved, and

The limits of "office hours" do not accommodate the crisis situation that occurs with domestic violence.

3) Domestic violence is the most dangerous situation in which law enforcement officers intervene. They need more familiarity with + solutions for dealing with these situations.

We believe H.B. 392 addresses all these problems effectively and urge your support.

Judy Indick

"An Act relating to domestic violence; and amending Rules 3, 65, and 76, Rules of Civil Procedures."

This Bill outlines the duties of peace officers in situations of domestic violence; provides for an order for relief for victims of domestic violence; and criminal penalties for violations of such orders.

The Department supports the intent of this Bill but has several concerns. Proposed Sec. 09.55.650 outlines the various duties of peace officers in addition to the requirement that they provide notice to victims of domestic violence. The Department's concern about this section relates to situations of domestic violence in which a child may be the victim. Under AS 47.17, the child protection statute, if a peace officer has cause to believe that a child has suffered harm as a result of abuse or neglect then he is required to report the harm to the Department and to take necessary action to protect the child. The legislature should be aware of these obligations and, perhaps, should refer to them in the proposed legislation.

Under proposed Sec. 09.55.660, if the court has reason to believe that a child has been a victim of violence, it may be advisable to have the court give notice to the Department of pending proceedings. If a report had been made to the Department by a peace officer or one of the other mandatory reporters under AS. 47.17, it would be important for the court to request an investigative report from the Department prior to making a determination regarding the temporary custody of the child. In addition, there is a possibility that a petition alleging that the child is in need of aid under AS 47.10 would already have been filed by the Department or by a concerned individual.

We note, finally, that the question of potential liability on the part of the state has not been addressed in relation to proposed Sec. 09.55.650 (a)(1). Does this mean that the victim may have a right of action in damages against the peace officer if the officer does not remain on the scene for what the victim considers to be a sufficient period time and the person is subsequently injured? Determination of how long to remain on the scene, in our experience, would be extremely difficult to make. If the legislature supports passage of this Bill, we would suggest that a provision be included which makes it clear that no such right of action is to be permitted.

RECOMMENDED BY: Art Holmberg DATE: 4/6/79  
 Art Holmberg, Director  
 Division of Social Services

APPROVED BY: Helen D. Beirne DATE: 4/6/79  
 Helen D. Beirne, Commissioner  
 Department of Health and Social Services

*Members files*

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION

P. O. BOX 181  
DILLINGHAM, ALASKA 99576  
TELEPHONE 842-5653

April 6, 1979

Nels A. Anderson, Jr.  
House of Representatives  
Pouch V  
Juneau, Alaska 99811

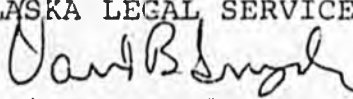
RE: HB 392

Dear Nels:

I am writing to urge your support for the above-referenced bill dealing with the problem of domestic violence. This bill addresses two of the most pressing aspects of this difficult problem. First of all it greatly expands the duties and freedom of the police in insuring the immediate safety and security of those family members who are endangered. Secondly, it provides an easier and more importantly, a swifter enforcement mechanism for insuring that future violent conduct is prevented. This is accomplished through a simplified complaint process for a battered spouse or family member to apply to the court for a temporary restraining order. Presently, one must deal only through a lawyer. In addition, ones rights under this statute must be affirmatively made known to the victim of domestic violence by the police officer (and if the person does not speak English a reasonable attempt to notify them must be made in their Native language).

I think that this bill is long overdue and one that is of extreme importance to the residents of our region. Many times, people do not even realize that they might be able to obtain a court order to prevent future violence, or to remove a dangerous family member from the home. This bill greatly increases the protections afforded to people who face a very frightening and often times completely neglected problem. If you desire any elaboration on the particular cases of spousal or family abuse that I have come across in this region, please get in touch with me. I would be happy to assist you in any possible way to insure this bills passage.

Sincerely,  
ALASKA LEGAL SERVICES CORP.

  
David B. Snyder  
Staff Attorney  
DBS:ilk  
cc: Donald Clocksin

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
165 SOUTH FRANKLIN STREET  
JUNEAU, ALASKA 99801  
TELEPHONE 586-6425

MEMORANDUM

TO: House Judiciary Committee  
FROM: Don Clocksin *DC*  
SUBJECT: HB 392 - Domestic Violence  
DATE: March 15, 1979

I. The Problem

Victims of physical attacks by household members are in an unique position. Police often refuse to view these attacks as criminal conduct. The victim is often unaware of what options he or she has and continues to accept beatings as unavoidable. (While the bill applies to both men and women, women are usually the victims.) The economic dependence of battered wives and the fear of injury create a loss of self-respect. The social acceptance of wife-beating and the irrationality of most attacks make the woman feel she is to blame. It is this syndrome which makes spousal abuse an unique and particularly serious problem.

According to the study on The Status Of Women In Alaska, Anchorage had an estimated 3.3 reported wife beatings each day. Alaska Legal Services Corporation reports that 70 to 75 percent of women seeking legal assistance have been beaten by their husbands. Another study indicates inter-spousal murders accounted for 12 percent of all murders in the United States in 1975.

II. The Solution

There is no immediate solution to the problem until people learn to solve their problems without the use of violence. Particularly, society must recognize spousal attacks as unacceptable conduct.

This bill seeks only to inform the victim of the available options and to protect the victim from attack. It is an "intervention" bill which does not try to solve the social problem but only to protect the victim from serious injury.

III. Section By Section Analysis

1. Section 1:

- a. Sec. 09.55.650: Requires a police officer called to the scene of a domestic attack to advise the victim of his or her rights and provide assistance as the circumstances require. Arrest of the attacker under existing criminal laws would be mandatory in some situations.
- b. Sec. 09.55.660: Allows the victim to obtain an emergency Order for Relief from a judge for up to ten days. After a hearing, such an Order may be issued for 45 days. The Order is to protect the victim from future attacks.
- c. Sec. 09.55.665: Requires the court system to prepare forms and instructions so the victim may file for this Order for Relief without the need for a lawyer.
- d. Sec. 09.55.670: The Order for Relief must be provided to the police, and procedures must be established to assure all officers know of the Order.
- e. Sec. 09.55.680: Law enforcement agencies must include in their training programs information on how to handle domestic violence.
- f. Sec. 09.55.690: Violation of the Order for Relief is a misdemeanor. A second violation (i.e. the third attack) means three days in jail. Arrest is mandatory for a violation of the Order for Relief.
- g. Sec. 09.55.700: "Domestic violence" is defined. It includes assault or battery on the victim or the victim's child, and includes sexual abuse. The term is limited to such acts against relatives, household members and present or former spouses. Programs providing alternative, temporary shelter to victims are defined.

2. Section 2:

Provides alternative housing for victims of domestic violence by granting a preference for ASHA housing, if otherwise eligible.

3. Section 3:

Allows magistrates and district judges to issue emergency ten-day Orders for Relief.

4. Section 4:

Amends certain Court Rules relating to filing of legal papers and issuance of injunctions.

DC/jf

## STATE LEGISLATIVE CHART UPDATE

A state-by-state follow-up telephone survey, conducted by the Center for Women Policy Studies, recorded changes made since January in state legislatures on the issue of domestic violence. The data are incorporated into the following chart, which is a revised version of the chart printed in the last issue of RESPONSE. Bill citations in bold print indicate new legislation introduced after January and portions of bill citations in bold print mean that only that part of the bill has changed, or an error in the old chart was corrected. If a state is not on the chart, then no changes were reported.

STATE	CIVIL REMEDIES—INJUNCTIVE RELIEF	SHELTER SERVICES	DATA COLLECTION	POLICE TRAINING	SPECIAL CRIMINAL STATUTES	CONCURRENT RESOLUTIONS
COLORADO	HB 1633 (Failed) HB 1143 (Passed 1978) • RO to be issued by county courts		HB 1633 (Failed)			
CONNECTICUT		Special Act No. 77-87 • Appropriation: \$150,000				
DISTRICT OF COLUMBIA	DC Code, Title 16 Ch 10 (1970)					
FLORIDA		HB 74 (Passed 1978)				
HAWAII					HB 742 (Failed)	
INDIANA					PL 358 (1978) • Compensation for victims of violent crimes	
IOWA	HF 2267 (Failed)	HF 2147 (Failed) S 2057 (Failed)	S 2057 (Failed) HF 2267 (Failed)			
KANSAS	SB 579 (Failed)					
KENTUCKY	HC 501 (Passed 1978) • Provides protective services to abused adults that agree to prosecute • Provides that people report such cases to the Department of Human Resources					
MARYLAND	SB 874 (Passed 1977) • Extends equity powers to divorce court • Provides for PO from divorce court		HJR 32 (Passed 1978)			HJR 32 (Passed 1978)
MASSACHUSETTS		H 1821 (Failed)				
MICHIGAN	HB 5350 (Incorporated into HB 5349) HB 5351 (Passed 1978) HB 5352 (Passed 1978)	HB 5306 (Passed 1978) HB 5355 (Cancelled and is now Sub HB 5306)	HB 5353 (Passed 1978)		HB 5349 (Passed 1978) HB 5356 (Passed 1978)	
MINNESOTA		SF 1689 (Passed 1978) • Appropriation: \$100,000 • Permits 4 shelters, research, and educational programs			SF 318 (Passed 1978) • Arrest on probable cause without warrant if made within 4 hours of abuse • Allows 24-hour detention period	
MISSOURI	HB 1023 (Failed)		HB 1023 (Failed)	HB 1023 (Failed)		
NEW JERSEY	A 844 (Pending) • In divorce proceedings, physical abuse is an affirmative defense to desertion claim A 847 (Pending) • THO may be issued by municipal court					
OKLAHOMA	HB 1620 (Failed)					
PENNSYLVANIA	SB 964 (Passed 1978 with the following amendments): • Must be taken before court that issued order if possible, must be arraigned before District Justice or Philadelphia Municipal Court Judge	HB 2193 (Pending) • Appropriation: \$1,400,000 • Funds for local shelters				
RHODE ISLAND	78-H-7868 sub A, Ch 15519 • RO may be granted if petition for divorce is filed • Court may prescribe counseling					
WEST VIRGINIA	HB 1082 (Failed)					
WISCONSIN						AJR 36 (Failed)

**Abbreviations in chart**

PO = PROTECTION ORDER  
 RC = RESTRAINING ORDER  
 VO = VACATE ORDER  
 TRO = TEMPORARY RESTRAINING ORDER  
 LEA = LAW ENFORCEMENT AGENCY  
 D = DEFENDANT  
 P = PLAINTIFF  
 TOP = TEMPORARY ORDER OF PROTECTION

The following is a chart of the major provisions of state legislation generated by the concern about battered women that has grown over the past several years. The statutory material was collected with the help of the contacts for each state, listed in the last issue of RESPONSE. These laws and pending legislation were assembled in January, 1978, and no systematic attempt has been made to update the information. Recent changes in the information that have come to our attention, however, are reflected on the

chart. We have also included older, comprehensive laws of the District of Columbia, Hawaii, and New York that deal with domestic violence. Similar statutes of other states may have been omitted because the criminal and civil codes of each state were not researched. The chart was compiled for CWPS by Barbara Harvis, a third-year law student at Georgetown University Law Center.

STATE	CIVIL REMEDIES— INJUNCTIVE RELIEF	SHELTER SERVICES	DATA COLLECTION	POLICE TRAINING	SPECIAL CRIMINAL STATUTES	CONCURRENT RESOLUTIONS
ALABAMA						
ALASKA		Laws of Alaska, Ch 72 (1977) • Shelter in Anchorage for one year • Appropriation: \$216,000				
ARIZONA						
ARKANSAS						
CALIFORNIA	Laws of Calif., Ch 720 (1977) • Includes cohabitants • TRO for maximum of 30 days • Ex parte relief "great or irreparable injury" • Relief is independent of Marriage Dissolution Proceeding • Copy of order to LEA if requested by s • Violation: Misdemeanor	Laws of Calif., Ch 892 (1977) • Statewide network of 4-6 pilot centers • Appropriations: \$280,000 • Data collection • Confidentiality of information	Laws of Calif., Ch 908 (1977) • Separates reporting of spouse abuse and child abuse		Laws of Calif., Ch 912 (1977) • Makes spouse abuse a felony • Includes cohabitants • Penalty: Imprisonment for not greater than 1 year	
COLORADO	HB 1633 (Pending) "Domestic Violence Abuse and Protection Act" • See Penn. law • Includes additional police enforcement and reporting provisions (temporary custody not to exceed 24 hours for violation of order and likelihood of assault)		HB 1633 (Pending) • Recordkeeping requirements by police • Annual statistical compilation by general assembly			
CONNECTICUT	Pub. Act No. 77-336 (1977) • PC Hearing within 14 days of application; Relief includes RO and VO • Maximum duration: 90 days unless action for marriage dissolution commenced • Copy of order to applicant upon request • Non-exclusive remedy†† • Ex parte relief "immediate and present physical danger"	Special Act No. 77-87 (1977) • Pilot program for shelter services • Appropriation: \$75,000				
DELAWARE						
DISTRICT OF COLUMBIA	DC Code, Title 16, Ch 10 (1977) • Includes cohabitants • PC: Relief includes RO, mandatory counseling • Maximum duration: 1 year • Ex parte relief "safety of welfare is immediately endangered" • Penalty: Contempt • No husband-wife privilege in proceedings					
FLORIDA		HB 74 (Pending) • Establishment and funding of diagnostic intervention centers • Educational and informational programs • Spouses only • Confidentiality of information • Mandatory police referral			Subsection 801.15(6) (Chap. 77-67), Fla. Statutes (1977) • Provides for warrantless arrest when abuse not in officer's presence	
GEORGIA						
HAWAII					Sec 709-906, Hawaii Penal Code (1973) • Makes spouse abuse a misdemeanor • Warrantless arrest if abuse in officer's presence • 3 hour cooling off period if abuse not in officer's presence • Violation Arrest • Record expungement provision  HB 742 (Pending) • Provides for warrantless arrest when abuse not in officer's presence	

Abbreviations in chart	Footnotes
RO - PROTECTION ORDER	† Relief without notice to the defendant
VO - VIOLENCE ORDER	† Provisions are both similarly the same as those listed on the chart under the Pennsylvania Protection from Abuse Act of 1976. Additional provisions not found in the Pennsylvania law are noted.
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STATE	CIVIL REMEDIES— INJUNCTIVE RELIEF	SHELTER SERVICES	DATA COLLECTION	POLICE TRAINING	SPECIAL CRIMINAL STATUTES	CONCURRENT RESOLUTIONS
IAHIO						
ILLINOIS	<p><i>Ch. 66 Sect. 25, Laws of IL (1977)</i></p> <ul style="list-style-type: none"> <li>• Spouses only</li> <li>• Injunctions include RO, VO for maximum of 30 days, temporary custody, counseling</li> <li>• <i>Ex parte</i> relief: "immediate and present danger of abuse"</li> </ul>					
INDIANA						
IOWA	<p><i>HF 2267 (Pending)</i></p> <p>"Protection from Domestic Abuse Act"</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• PO or consent agreement hearing within 10 days</li> <li>• Relief includes RO, VO, possession of residence or alternate housing for .. temporary custody or visitation</li> <li>• J has right to counsel</li> <li>• Defines PO violation ("mere presence on premises" = violation of eviction or alternate housing order)</li> <li>• Max. duration of PO: 1 year</li> <li>• <i>Ex parte</i> relief: "present danger of domestic abuse"</li> <li>• Emergency night and weekend relief</li> <li>• Non-exclusive remedy††</li> <li>• Violation: Contempt (Jail sentence may be on weekends)</li> </ul>	<p><i>HF 2147 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Authorizes counties to provide emergency shelter and support services</li> </ul> <p><i>S 2057 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Funding for four pilot shelter and support programs</li> <li>• Educational programs</li> <li>• Uniform method of data collection and evaluation</li> <li>• Appropriation: \$500,000</li> </ul>	<p><i>S 2057 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Mandatory data collection by hospitals, doctors, nurses, and police</li> </ul> <p><i>HF 2267 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Mandatory collection of data by state and local LEAs</li> <li>• Information relayed to central registry for child abuse</li> <li>• Limits access to registry information</li> <li>• Confidentiality of records</li> </ul>			
KANSAS	<p><i>SB 576 (Pending)</i></p> <p>"Protection from Abuse Act"</p> <ul style="list-style-type: none"> <li>• See Penn. law*</li> <li>• Support payments, costs and attorneys fees</li> <li>• Provision for possession of personal property</li> </ul>					
KENTUCKY	<p><i>HB 499 (Failed 1978)</i></p> <p>"Domestic Abuse Act"</p> <ul style="list-style-type: none"> <li>• See Penn. law*</li> <li>• Definition of abuse includes threat to commit crime likely to result in substantial property damage</li> <li>• Mandatory arrest if probable cause to believe assault or violation of PO</li> <li>• Police transportation to hospital or doctor</li> <li>• Police must inform victim of right to seek criminal or civil action</li> <li>• Husband-wife privilege shall not be used as exclusion grounds when evidence of abuse</li> </ul> <p><i>KRS 403.270 (Amended 1978)</i></p> <p>"Child Custody Act"</p> <ul style="list-style-type: none"> <li>• Abandonment of house where abuse is threatened not relevant in custody cases</li> </ul>	<p><i>HB 750 (Failed 1978)</i></p> <p>"Prevention and Treatment of Domestic Violence Act"</p> <ul style="list-style-type: none"> <li>• Establishes Governor's Commission on Domestic Violence</li> <li>• Authorizes six shelter facilities</li> <li>• Education program</li> <li>• Standard system for collecting and analyzing data</li> <li>• Appropriation: \$1,000,000</li> </ul>	<p><i>HB 750 (Failed 1978)</i></p> <ul style="list-style-type: none"> <li>• Mandatory data collection by social service agencies and LEAs</li> <li>• Annual reports to Governor</li> </ul>			
LOUISIANA						<p><i>SCR 21 (1977)</i></p> <ul style="list-style-type: none"> <li>• Requests La. Department of Health and Human Resources to study problem</li> </ul>
MAINE		<p><i>LD 2074 (Failed)</i></p> <ul style="list-style-type: none"> <li>• Establishment of emergency shelters</li> <li>• Appropriation: \$200,000</li> </ul>				
MARYLAND		<p><i>Mc Ann Code on 68a 101-105 (Supp. 1977)</i></p> <ul style="list-style-type: none"> <li>• Spouses only</li> <li>• Establishment of model shelter home</li> </ul>	<p><i>HJR 32 (Failed)</i></p> <ul style="list-style-type: none"> <li>• Recordkeeping by state police of incidents and resolutions</li> </ul>		<p><i>HJR 32 (Failed)</i></p> <ul style="list-style-type: none"> <li>• Recordkeeping by state police of incidents and resolutions</li> </ul>	
MASSACHUSETTS		<p><i>Chap 647 (1977)</i></p> <ul style="list-style-type: none"> <li>• Establishes temporary supportive residences</li> </ul> <p><i>M 1821 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Victims of domestic violence included in assistance programs to persons deprived of living quarters</li> </ul>				
MICHIGAN	<p><i>HB 6127 (Pending)</i></p> <p>"Protection from Abuse Act"</p> <ul style="list-style-type: none"> <li>• See Penn. law*</li> <li>• More expansive relief (support orders, possession of residence)</li> <li>• Penalty for contempt: imprisonment for not greater than 6 months, fine not greater than \$1,000, or both</li> <li>• J does not have right to jury trial</li> </ul> <p><i>HB 5350 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Violation of preliminary injunctive order = felony</li> </ul> <p><i>HB 5351 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Proof of service of preliminary injunctive order must be filed with LEA</li> </ul> <p><i>HB 5352</i></p> <ul style="list-style-type: none"> <li>• Mandatory filing with LEA of RO or divorce actions by clerk</li> </ul>	<p><i>HB 5355 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Establishment of temporary supportive residences</li> <li>• Includes cohabitants</li> <li>• Data collection</li> <li>• Appropriation: \$500,000</li> </ul> <p><i>HB 5306 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Establishment of pilot assistance center</li> <li>• Includes cohabitants</li> <li>• Data collection</li> <li>• Appropriation: \$500,000</li> </ul> <p><i>HB 5281 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Establishment of shelter</li> </ul>	<p><i>HB 5353 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Uniform crime reporting system by local and state police</li> </ul>	<p><i>HB 5354 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Police training in investigation of domestic assault cases</li> </ul>	<p><i>HB 5349 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Warrantless arrest when abuse not in police officer's presence</li> <li>• Mandatory arrest if probable cause to believe violation of preliminary injunctive order of peace bond</li> </ul> <p><i>HB 5356 (Pending)</i></p> <ul style="list-style-type: none"> <li>• Special probation provision for spouse with no previous convictions may require mandatory counseling</li> </ul>	<p><i>HCR 106 (1977)</i></p> <ul style="list-style-type: none"> <li>• Creates special committee to study the problem</li> </ul>

STATE	CIVIL REMEDIES— INJUNCTIVE RELIEF	SHELTER SERVICES	DATA COLLECTION	POLICE TRAINING	SPECIAL CRIMINAL STATUTES	CONCURRENT RESOLUTIONS
MINNESOTA		<p>Chap 428 (S.F. 124) (1977)</p> <ul style="list-style-type: none"> <li>• Establishment of four pilot shelter programs</li> <li>• Includes cohabitants</li> <li>• Educational program</li> <li>• Data collection and evaluation</li> <li>• Assistance to displaced homemakers</li> <li>• Appropriation: \$500,000, plus \$100,000 for displaced homemakers</li> </ul>	<p>Chap 428 (S.F. 124) (1977)</p> <ul style="list-style-type: none"> <li>• Mandatory reporting of data by hospitals, doctors, nurses, and LEAs</li> </ul>			
MISSISSIPPI						
MISSOURI	<p>HB 1023 (Pending)</p> <ul style="list-style-type: none"> <li>• See Penn. law</li> <li>• Right to relief not affected by self defense or by leaving residence to avoid abuse</li> <li>• No execution of bond by petitioner</li> <li>• Attorney fees paid by D if D loses</li> <li>• Relief is independent of marriage dissolution proceedings</li> <li>• Emergency night relief</li> <li>• Temporary custody (20 hrs) for abuse and violation of court order</li> </ul>		<p>HB 1023 (Pending)</p> <ul style="list-style-type: none"> <li>• LEA recordkeeping requirements</li> <li>• Confidentiality of records</li> <li>• Immunity to recordkeepers</li> </ul>	<p>HS 1025 (Pending)</p> <ul style="list-style-type: none"> <li>• Establishment of domestic crisis teams</li> </ul>		
MONTANA						<p>HJR 103 (Failed)</p> <ul style="list-style-type: none"> <li>• Requesis study of battered spouse needs</li> </ul>
NEBRASKA	<p>LB 623 (1978)</p> <p>"Protection from Domestic Abuse Act"</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Relief includes TRO and TVO</li> <li>• Ex parte relief: "irreparable harm, loss, or damage"</li> <li>• Applicant gets two free copies of order</li> </ul>	<p>LB 623 and LB 623a (1978)</p> <ul style="list-style-type: none"> <li>• Establishes comprehensive support services to victims, families, and abusers.</li> <li>• Compilation of statistical data</li> <li>• Confidentiality of information</li> <li>• Appropriation: \$176,000 for three pilot shelters</li> </ul>		<p>LB 623 (1978)</p> <ul style="list-style-type: none"> <li>• Education and training program for LEA</li> </ul>	<p>LB 623 (1978)</p> <ul style="list-style-type: none"> <li>• Mandatory counseling as condition of probation for abuser</li> </ul>	
NEVADA						
NEW HAMPSHIRE						
NEW JERSEY	<p>S 3156 (Pending)</p> <p>"Battered Persons Act"</p> <ul style="list-style-type: none"> <li>• See Penn. law</li> </ul>	<p>A3168 (Pending)</p> <ul style="list-style-type: none"> <li>• Establishes shelters and comprehensive services</li> <li>• Includes cohabitants</li> </ul>		<p>A 3170 (Pending)</p> <ul style="list-style-type: none"> <li>• Special police training</li> </ul>	<p>A 3171 (Pending)</p> <ul style="list-style-type: none"> <li>• Person accused of assault, assault and battery or atrocious assault and battery may be kept away from marital residence for up to 72 hours.</li> </ul>	
NEW MEXICO						
NEW YORK	<p>Family Court Act: Art. B, NY Jud. Law (McKinney) amended by Chap. 449 (S 6617-6642) (1977)</p> <ul style="list-style-type: none"> <li>• Spouses only</li> <li>• Initial concurrent jurisdiction in family court and criminal court, but exclusive remedy</li> <li>• PO (restricting locate, visitation, custody) Maximum duration: 1 year</li> <li>• Ex parte relief</li> <li>• Notice of PO to LEA</li> <li>• Violation: Maximum of 6 months jail</li> <li>• Conciliation procedures (pre-filing of petition)</li> <li>• Probation services, written agreements (court may enter PO in accordance with agreement)</li> </ul>	<p>Chap 450 (S6616-6643), Laws of NY (1977)</p> <ul style="list-style-type: none"> <li>• Permits Board of Social Welfare to approve establishment and operation of shelter homes</li> </ul>	<p>Chap 449 (S 6617-6642) laws of NY (1977)</p> <ul style="list-style-type: none"> <li>• Compilation of data by judiciary</li> </ul>		<p>Chap 449 (S6617-6642) laws of NY (1977)</p> <ul style="list-style-type: none"> <li>• Gives criminal courts power to issue TOP as condition of pre-trial release and upon conviction to enter PO</li> <li>• Copy of order to police</li> </ul>	
NORTH CAROLINA						
NORTH DAKOTA						
OHIO	<p>HB 636 (Pending)</p> <ul style="list-style-type: none"> <li>• See Penn. law</li> </ul>	<p>HB 1060 (Pending)</p> <ul style="list-style-type: none"> <li>• Loan and grant program for purchase or renovation of buildings to be used as shelter, max. loan for 1 building: \$75,000</li> </ul> <p>HB 957 (Pending)</p> <ul style="list-style-type: none"> <li>• Establishes program of family protective services</li> <li>• Include cohabitants</li> <li>• Recordkeeping provision</li> <li>• Appropriation: \$5,000,000</li> </ul>			<p>HS 957 (Pending)</p> <ul style="list-style-type: none"> <li>• Makes second or subsequent criminal assault against spouse a felony of 4th degree</li> <li>• Includes cohabitants</li> <li>• PO during pendency of action, 24 hour day court, copy of order to LEA</li> <li>• Probation provision (suspended sentence) if participation in psychological treatment programs</li> </ul>	
OKLAHOMA	<p>HB 1000 (Pending)</p> <p>Protection of Household Members from Abuse Act</p> <ul style="list-style-type: none"> <li>• See Penn. law</li> </ul>					

STATE	CIVIL REMEDIES— INJUNCTIVE RELIEF	SHELTER SERVICES	DATA COLLECTION	POLICE TRAINING	SPECIAL CRIMINAL STATUTES	CONCURRENT RESOLUTIONS
OREGON	<p>Chap 645 (HB 2438), Oregon laws (1977)</p> <p>Abuse Prevention Act</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Relief includes TRO, injunction or consent agreement, temporary custody or visitation</li> <li>• Maximum duration: 1 year</li> <li>• No undertaking required</li> <li>• Relief not affected by leaving household to avoid abuse</li> <li>• Non-exclusive remedy††</li> <li>• Petitioner must deliver copy of order to LEA</li> <li>• Mandatory arrest for violation of restraining order. May be released on bail pending contempt hearing</li> <li>• Limits criminal and civil liability of arresting officer</li> </ul>	<p>Chap 646 (SB 769), Oregon Laws (1977)</p> <ul style="list-style-type: none"> <li>• Grants for programs (including shelters) designed to prevent, identify and treat domestic violence.</li> </ul>			<p>Chap 645, Ore Laws (1977)</p> <ul style="list-style-type: none"> <li>• Provides for mandatory arrest (unless victim objects) if police officer has probable cause to believe assault or fear of assault on spouse</li> <li>• Includes cohabitants</li> <li>• Limits criminal and civil liability for arresting officer</li> </ul>	
PENNSYLVANIA	<p>Act 218, Laws of PA (1976)</p> <p>Protection from Abuse Act</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Right to relief not affected by leaving household to avoid abuse</li> <li>• PO or consent agreements: Hearing within 10 days of filing petition, proof by preponderance of evidence. Δ has right to counsel. Relief include: RO, VO, possession of residence, temporary custody and visitation, alternate housing. Maximum duration: 1 year</li> <li>• <i>Ex parte</i> relief: "immediate and present danger of abuse"</li> <li>• Emergency weekend relief</li> <li>• Copy of order to Δ, Δ, and LEA</li> <li>• Non-exclusive remedy††</li> <li>• Violation: contempt</li> </ul>	<p>SB 564 (Pending)</p> <p>Amends Act 218</p> <ul style="list-style-type: none"> <li>• Clarifies when Δ may gain possession of household</li> <li>• Provides that relief may include support order</li> <li>• Emergency relief by Philadelphia municipal court judge</li> <li>• Violation: indirect criminal contempt, maximum penalty 6 months in prison, \$1,000 fine, or both, no right to jury trial</li> <li>• Warrantless arrest for violation of order if probable cause (whether or not in presence of arresting officer)</li> </ul>				
RHODE ISLAND					<p>77-S-1005, Chap 259, RI Public Law (1977)</p> <ul style="list-style-type: none"> <li>• Makes domestic assault a misdemeanor</li> <li>• Includes cohabitants</li> <li>• Arrest must be made within 24 hours after commission of crime</li> <li>• No recognizance requirement</li> </ul>	
SOUTH CAROLINA		<p>S 795 (Pending)</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Establishes pilot programs for shelter and support services</li> <li>• Community education program</li> <li>• Data collection and program evaluation</li> </ul>				
SOUTH DAKOTA	<p>SB 335 (failed)</p> <ul style="list-style-type: none"> <li>• Provides for RO and VO</li> <li>• <i>Ex parte</i> relief</li> </ul>					
TENNESSEE					<p>Tenn Code Ann Sect 39-602 (1976)</p> <ul style="list-style-type: none"> <li>• Makes domestic assault a misdemeanor</li> </ul>	
TEXAS						
UTAH						
VERMONT						
VIRGINIA	<p>Code of VA 16.1-275 (amended) 1976</p> <ul style="list-style-type: none"> <li>• Court order for counseling or treatment for either spouse</li> <li>• Δ may have to pay for shelter care</li> </ul>	<p>HB 685 (Pending)</p> <ul style="list-style-type: none"> <li>• Two-year pilot shelter program</li> <li>• Department of Welfare pays one-half cost for shelter</li> </ul>				
WASHINGTON						
WEST VIRGINIA	<p>HB 1082 (Pending)</p> <ul style="list-style-type: none"> <li>• Includes cohabitants</li> <li>• Right to relief not affected by leaving household to avoid abuse</li> <li>• PO or consent agreements include RO, possession of residence or VO, custody to party with possession</li> <li>• Maximum duration: 10 days (renewable for 10 days)</li> <li>• <i>Ex parte</i> relief: only after notice to Δ, hearing within 72 hours "immediate and present danger of abuse"</li> <li>• Non-exclusive remedy††</li> <li>• Violation: contempt</li> <li>• No husband-wife privilege under the act</li> </ul>					
WISCONSIN						<p>AJR 36 (Pending)</p> <ul style="list-style-type: none"> <li>• Directs legislative council to study the problem of abuse of spouses</li> </ul>
WYOMING						

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 5, 1979

SUBJECT: Bill permitting the use of video-taped testimony of young victims of rape. (Work Order Number 7548)

TO: Representative Charles H. Parr, Chairman House Judiciary Committee  
Attn: Margaret W. Berck  
Counsel to the House Judiciary Committee

FROM: Drana Spragg Pegues *[Signature]*  
Co-Revisor of Statutes

This request has been assigned to me for drafting. I am writing to inform you that I believe the request involves a matter which is subject to court rule.

The manner of taking, preserving and presenting evidence of a witness in a criminal trial is a matter of practice and procedure which would properly be included either in the new court rules of evidence or in the court rules of criminal procedure.

As you know, the legislature may change an existing court rule of practice and procedure by a two-thirds vote. (Art. IV, sec. 15, Alaska Constitution). However, the legislature may not adopt a new rule for the court. This request apparently involves initiating an entirely new rule. See City of Valdez v. Valdez Development Co., 506 P.2d 1279, 1282 (1973), Leege v. Martin, 379 P.2d 447, 450 (1963).

I will not proceed further with this request until I hear from you. If you wish the bill prepared even though it involves court rule, we could consider whether it could be added to Rule of Evidence 804(b) (exceptions to hearsay rule) as a "change" to that rule. *(Requiring 2/3 vote of the legislature)*

DSP:ljb

*Charlie, I will request this on Dec. 7, 1979. MMB*

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL

JUNEAU, ALASKA 99811

907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 13, 1979

SUBJECT: Post-Judgment Interest Rates  
(Work Order Number 7547)

TO: Charles H. Parr, Chairman  
House Judiciary Committee  
Attn: Peggy Berck  
Administrative Assistant

FROM: Thomas A. Sofo *TAS*  
Legislative Counsel

At present post- and pre-judgment interest rates are both at eight percent. By amending the post-judgment interest rate in a manner which will undoubtedly make it higher than the eight percent pre-judgment rate of AS 45.45.010(a) we are creating a situation in which the big corporate defendant has financial incentive to delay litigation. It is only removed in degree from the earlier situation in which there was apparently post-judgment interest but no recognition of pre-judgment interest until the courts made it clear that such was necessary to counter certain abuses. A review of the case law indicates that we may be recreating a situation subject to the very misuses which the post-judgment and pre-judgment interests statutes and cases were designed to alleviate. Possibly we should consider amending or adding a section to AS 45.45.010 in such a manner as to reflect a calculation of the pre-judgment interest rate by the same manner post-judgment interest rates are calculated. Please let me know of your desires with regard to the above.

TAS:ljb

Enclosure

STATE OF ALASKA  
THE LEGISLATURE  
LEGISLATIVE AFFAIRS AGENCY

Sally  
53839  
Requested  
to put in  
final form

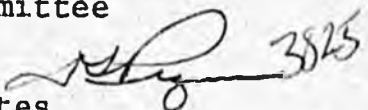
POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

MEMORANDUM

December 19, 1979

SUBJECT: Bill permitting the use of video-taped testimony of young victims of sexual assault (Work Order Number 7548)

TO: Representative Charles H. Parr, Chairman House Judiciary Committee

FROM: Donna Spragg Pegues  3825  
Co-Revisor of Statutes

Attached is a draft of the bill requested for the Judiciary Committee relating to the video-taping of the testimony of young victims of sexual assault. I have drafted the bill as an amendment to the Code of Criminal Procedure and have included the required references to the Rules of Court identifying this bill as a change to Rule 804, Rules of Evidence (exceptions to the hearsay rule).

As I noted in my memo of December 5, I am not really certain whether this bill involves a "change" to a rule or the adoption of a "new" rule. As you know, the legislature may change an existing court rule of practice and procedure by a two-thirds vote. (Art. IV, sec. 15, Alaska Constitution). However, the legislature may not adopt a new rule for the court. This request might be construed as initiating an entirely new rule.

However, I am have become convinced that the bill simply "changes" the exceptions to the hearsay rule and this conviction is supported by the language of Rule 802, Alaska Rules of Evidence which provides:

"Hearsay is not admissible except as provided by these rules, by other rules prescribed by the Alaska Supreme Court, or by enactment of the Alaska Legislature."  
(Emphasis added.)

DSP:ljb

Enclosure

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 14, 1980

SUBJECT: Post-Judgment Interest Rates  
(Work Order Number 7547)

TO: Representative Charles H. Parr, Chairman  
House Judiciary Committee  
Attn: Peggy Berck  
Administrative Assistant

FROM: Thomas A. Sofo *TAS*  
Legislative Counsel

AS 45.45.010, the Alaska statute dealing with the legal rate of interest generally within the state, already requires the Department of Commerce and Economic Development to compile the 12th Federal Reserve District figure on a quarterly basis. If the intent behind the current amendment is to make the post-judgment interest rate more responsive to market conditions, this can be done on a quarterly basis (rather than semiannually as you have requested) without imposing any additional administrative burden on the bureaucracy.

TAS:ljb

*Alaska* STATE HOUSING AUTHORITY

January 23, 1980

Representative Charles H. Parr  
Chairman, House Judiciary Committee  
Pouch V, Mail Stop 3100  
Juneau, Alaska 99811

Dear Representative Parr:

Re: House Bill 392

In accordance with Representative Malone's request during committee hearings on HB 392 on Thursday, January 17, 1980, the Alaska State Housing Authority (ASHA) respectfully submits a draft revision of that bill (enclosed). ASHA's purpose, as I indicated in my testimony, is to alert the Legislature to possible conflicts with federal regulations.

The United States Department of Housing and Urban Development (HUD) is ASHA's primary funding source, and has a substantial amount of statutory and regulatory control of ASHA's actions. We have attempted to reword the legislation in order to resolve potential state law-federal law conflicts, and to clarify an area subject to alternative interpretations.

First, our draft clearly establishes in (a), that only one thirty day period is required initially. This will avoid the potential for having sorely needed housing resources vacant for an extended period. In addition, the word "shall" is added between "violence" and "have" on line fourteen.

Second, the word "shall" has been inserted on line seventeen, between "violence" and "have" in (b).

Third, in (c), the requirement for formally filing a regulation concerning eligibility for victims of domestic violence has been deleted, since this eligibility provision can be inserted into ASHA's Statement of Policies concerning admission and continued occupancy, which is required by HUD to be formalized in writing. In ASHA's opinion, nothing is lost, since APA regulations are mandatory in State funded projects, and federal regulations and the Statement of Policies govern federally subsidized projects.

*Alaska* STATE HOUSING AUTHORITY

Representative Charles H. Parr

-2-

January 23, 1980

Last, (d) is added to allow ASHA to avoid the potential "double bind" inherent in unresolved conflicts between State statutes and federal laws, regulations and mandates. This subparagraph also specifically acknowledges the need for conforming with federal requirements in federally funded projects recognized by AS 18.55.110.

Thank you for the opportunity to comment in a constructive manner. If you, or members of the committee have any questions or comments, please contact me at your convenience.

Sincerely,



Harry F. Goldbar  
Executive Director  
Alaska State Housing Authority

HFG/1a3/10

cc: Charles Webber, Commissioner of Commerce  
Roger Lang, Chairman, ASHA Board

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
419 SIXTH STREET, SUITE 322  
JUNEAU, ALASKA 99801  
TELEPHONE 586-6425

MEMORANDUM

TO: Rep. Hugh Malone  
FROM: Don Clocksin and Bruce Horowitz  
DATE: April 1, 1980  
RE: CSHB 392 am - Domestic Violence

On March 14, 1980, Chief Prosecutor Dan Hickey wrote you a letter commenting on CSHB 392 am relating to domestic violence. He made several suggestions for changes. This memo is a response to each suggestion.

Before responding, however, we must admit we are confused about the position of the Department of Law on this bill. Rick Svobodny, who works closely with Mr. Hickey, actively participated in the redraft of this bill in the House Judiciary Committee. All of the concerns he raised were addressed and he expressed no further problems with the bill at that time.

1. Bill restates current law enforcement practices (p. 1)

Mr. Hickey suggests that current law enforcement practices are the same as those imposed in the bill, particularly in Section 650 relating to the notices. However, evidence presented to the Legislature indicated such practices are not being followed in many areas. If peace officers are not complying with these practices, it is certainly "good public policy" to require them to do so. Mr. Hickey's problems with civil liability (p. 2) have been at least partly resolved -- with the able assistance of Mr. Svobodny. Immunity for discretionary acts is greater than in the original bill.

2. Training

Mr. Hickey's suggestions about training are excellent and are already incorporated in Section 680 of the bill.

3. Delete Section 650(b) - the "reading of rights" (p. 2)

Mr. Hickey says requiring a peace officer to provide a statement of rights to a victim will destroy the "genuine cooperation" between officer and victim. Evidence presented to the Legislature revealed that "genuine cooperation" does not now exist in many areas of the state. The failure of peace officers to adequately relate to victims of domestic violence was a major reason for the filing of the bill.

Further, Miranda warnings were required by the Supreme Court because peace officers consistently failed to give proper advice. Contrary to Mr. Hickey's implication, Miranda warnings have worked very well because they eliminate the peace officer's discretion to deny constitutional rights.

4. Discretion and good judgment required (p. 3)

Mr. Hickey suggests that the problem of domestic violence is not subject to Legislative solution because that violence does not occur in a "rational setting." We respectfully reject the implication that the legislature does not have the ability to solve difficult problems. If it didn't, the state would have no divorce, adoption or child protection laws and no presumptive sentencing or eviction law. The bill does not eliminate the peace officer's discretion, again thanks to amendments developed with Mr. Svobodny's assistance.

5. Unclear time period for temporary order (p. 3)

Mr. Hickey's comments on the duration of temporary orders for relief are well-taken. The temporary order -- issued by a superior or district court or a magistrate under Section 660(d) -- should last only ten days unless extended by order of the court. A "permanent" order for relief issued by a superior court would last no longer than 45 days, unless extended. Amendments to clarify the time limits and to clarify what the temporary order should say are attached.

6. Potential constitutional problems with temporary orders (p. 3)

Mr. Hickey incorrectly claims there are constitutional problems with a temporary order because it is as broad as a "permanent" order and can be issued without notice. In fact, Civil Rule 65 creates the same relationship between temporary and permanent injunctions, and no one suggests that rule is unconstitutional. Temporary injunctions without notice in domestic cases have been approved in a number of states, including Alaska. Voss v. Voss, 169 So. 2d 351 (Fla. 1964);

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Miller v. Miller, 294 S.W. 694 (Tex. Civ. App. 1927); Ardis v. Sanford, 389 N.Y.S. 2d 529 (N.Y. 1976); Johnson v. Johnson, 544 F. 2d 64 (Alaska 1975).

7. Support is unrelated to domestic violence (p. 3)

In the last sentence on p. 3, Mr. Hickey suggests the order for relief should not provide for temporary support because it is "unrelated" to the problem. An abuser often asserts economic as well as psychological control over a victim. Testimony to the Legislature revealed that lack of independent financial resources is often what forces victims to remain in the home of an abuser.

8. No crime of violating order for relief (p. 4)

Mr. Hickey does not believe it should be a crime to violate an order for relief. He also attempts to create confusion where there is none. If an order prohibits domestic violence or harassment, and the attacker commits those acts, it is a crime. If the order does not prohibit those acts, it isn't. Violation of a temporary custody or support order or non-confrontational contact in violation of an order is never a crime, but is subject to civil contempt. We believe peace officers will be able to distinguish between assault and a failure to pay support or between an assault or a nonconfrontational contact and, thus, will be able to understand this law.

9. Amend criminal code (p. 4)

Mr. Hickey proposes to amend the criminal code to delete AS 12.25.030(b). That section, adopted as part of the criminal code, allows arrest for a battery of a household member committed outside the police officer's presence where there is good cause evidence of the physical assault. We do not support this effort to tamper with the Criminal Code so soon after its adoption. (Nor would we oppose the deletion of the House amendment on p. 7, lines 2-4 which amended AS 12.25.030(b)).

10. Change definition of domestic violence (p. 4)

Mr. Hickey's criticism of the broad definition of "domestic violence" is well taken. An amendment is attached which eliminates blood relatives not in the household. However, a spouse or ex-spouse should be covered, regardless of where he or she lives.

11. Mandatory prosecutions and uncooperative victims (pp. 4-5, 6)

Mr. Hickey believes the problems of domestic violence can be alleviated by allowing a criminal case to proceed even though the victim does not wish it to. He proposes to: (1) force the victim to testify whether he or she wants to or not; (2) impose a mandatory physical examination; (3) eliminate the confidentiality of her communications with her doctor or psychiatrist; and (4) tell the jury the victim's non-cooperation is irrelevant to defendant's guilt.

While we agree that many victims of domestic violence decide after charges are filed not to prosecute, we think the remedy proposed by Mr. Hickey is excessive. This bill as it stands gives victims options which will likely reduce the number of situations where criminal prosecutions are dropped. Only the most serious cases will be dealt with criminally. Further, if a victim knows she will be forced to cooperate and be subjected to loss of rights, she may refuse to ever bring charges. Thus, the result may be less cooperation with prosecutors, not more.

12. Legislative intent (p. 5)

Mr. Hickey suggests a statement of legislative intent would be helpful. We agree, and one is attached.

13. Amend bail statute (p. 5)

Mr. Hickey proposed to amend the bail statute to provide for imposition of specific conditions of release in domestic violence cases. We agree, and an amendment is attached. Some judges already impose those conditions, but a clarification of their authority to do so is a good idea.

14. Domestic violence as factor in presumptive sentencing (pp. 5-6)

Mr. Hickey suggests domestic violence should be considered in setting a sentence for both misdemeanors and felonies. We do not support this change because (1) we aren't prepared to tamper with the Criminal Code, and (2) we don't understand the subtleties of presumptive sentencing sufficiently to support its expansion to misdemeanors.

15. Impeachment by prior convictions or acts (p. 6)

Mr. Hickey proposes to allow impeachment of a defendant's testimony by use of evidence of prior domestic

violence whether or not the defendant was convicted. We do not support such a change. If defendants were just prosecuted for domestic violence like other defendants were prosecuted, we would be happy. No special rules are necessary.

16. No bail and no contact after conviction (p. 6)

Mr. Hickey suggests we deny bail to defendants in domestic violence cases after convictions and prohibit contact as part of a suspended sentence. While such protection is tempting, it may infringe excessively on the defendants' constitutional rights, and may inhibit whatever chance there may be for reconciliation. The bill as passed by the House contains a careful balance between the rights of the defendant and the needs of the victim. Mr. Hickey's attempt to expand the "law and order" character of the bill is perhaps an excess of zeal. If his amendments were all adopted, the balance may well be tipped too far against the defendant in a criminal case.

We believe we can at least partially solve the problem of domestic violence by adding a new alternative for victims, increasing their access to the court for civil remedies, and assuring that in every situation, victims are told of the choices they have. Criminal prosecution should not be the only choice for addressing this complex problem.

cc: Sen. Robert Ziegler  
Daniel W. Hickey  
Rep. Charlie Parr

LAW OFFICES OF  
ALASKA LEGAL SERVICES CORPORATION  
419 SIXTH STREET, SUITE 322  
JUNEAU, ALASKA 99801  
TELEPHONE 586-6425

PROPOSED AMENDMENTS TO CSHB 392 am H

April 1, 1980

1. On p. 4, line 12, delete the last sentence down through line 18 and insert:

Every temporary order issued under this subsection shall be endorsed with the date and hour of issuance, shall forthwith be filed and entered of record, -and shall state why the temporary order is being issued. If the temporary order is issued by a superior court, it shall include a notice of hearing on the order for relief and shall be served on the defendant. If a temporary order is issued by a district court or a magistrate, the superior court shall forthwith schedule a hearing on the order for relief and notify the respondent of the temporary order and of the hearing on the order for relief. A temporary order shall expire by its terms in ten days unless extended by the court or magistrate for good cause shown.

2. On p. 4, line 19, delete "by a superior court under this section" and insert "under (b) of this section"
3. On p. 6, line 14, delete ", or blood relative of the person" and insert "or" before the words "former spouse"
4. On p. 1, line 11, insert a new section to read:

Sec. 09.55.600. STATEMENT OF PURPOSE. The legislature finds that assaults and harassment by household members or ex-spouses are a growing problem in Alaska and that special solutions to the problem are needed. The criminal justice system is often unable to provide an adequate remedy because of the economic and psychological dependence of victims of domestic violence on their attackers. The purpose of this legislation is to assure that victims of domestic violence will be advised of all available alternatives, that they will

have immediate access to the judicial system to obtain an injunction without excessive costs or the requirement of legal representation, that people who commit domestic violence will be dealt with fairly and firmly, and that peace officers will be trained to respond properly to domestic violence situations.

5. On p. 7, line 5, insert a new section and renumber accordingly:

Sec. 3. AS 12.25.020 (c) is amended by adding a new subsection to read:

(11) whether the offense charged is domestic violence as defined in AS 09.55.700.

6. On p.6, line 10, delete "AS 09.55.650" and insert "AS 09.55.600"
7. On p. 7, line 27, delete "AS 09.55.650" and insert "AS 09.55.600"

LAW OFFICES OF  
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MEMORANDUM

TO: Senate Judiciary Committee  
FROM: Don Clocksin <sup>DC</sup> and Bruce Horowitz <sup>BTH</sup>  
SUBJECT: CSHB 392 am H - Domestic Violence  
DATE: April 1, 1980

I. The Problem

Victims of physical attacks by household members or spouses are in an unique position. Police often refuse to view these attacks as criminal conduct. The victim is often unaware of what options he or she has and continues to accept beatings as unavoidable. The economic and psychological dependence of battered wives and the fear of injury create a loss of self-respect. The social acceptance of wife-beating and the irrationality of most attacks make the woman feel she is to blame. It is this syndrome which makes spousal abuse an unique and particularly serious problem.

According to the preliminary study on The Status of Women In Alaska, Anchorage had an estimated 3.3 reported wife beatings each day. Alaska Legal Services Corporation reports that 70 to 75 percent of women seeking legal assistance have been beaten by their husbands. Another study indicates inter-spousal murders accounted for 12 percent of all murders in the United States in 1975.

Testimony in the House last session, during the interim this session established that domestic violence is a substantial problem in Alaska and that criminal solutions are not adequate.

II. The Solution

There is no immediate solution to the problem until people learn to solve their problems without the use of violence. Particularly, society must recognize spousal attacks as unacceptable conduct, and courts and prosecutors must treat them just like other crimes.

This bill seeks to inform the victim of the available options and to protect the victim from attack. It is an "intervention" bill which does not try to solve the social problem but only to protect the victim from serious injury. It establishes a new easy-to-get injunction and provides for police training on

domestic violence.

III. Section By Section Analysis

1. Section 1:

- a. Sec. 09.55.650: A police officer called to the scene of a domestic attack is to advise the victim of his or her rights and provide assistance as the circumstances require.
- b. Sec. 09.55.660: Allows the victim to obtain an emergency Order for Relief from a judge or magistrate for up to ten days. After a hearing, such an Order may be issued for 45 days. The Order is to protect the victim from future attacks.
- c. Sec. 09.55.665: Requires the court system to prepare forms and instructions so the victim may file for this Order for Relief without the need for a lawyer.
- d. Sec. 09.55.670: The Order for Relief must be provided to the police, and procedures must be established to assure all peace officers know of the Order.
- e. Sec. 09.55.680: Law enforcement agencies must include in their training programs information on how to handle violence.
- f. Sec. 09.55.690: Intentional violation of the Order for Relief is a class B misdemeanor. A second violation (i.e. the third attack) means 72 hours in jail.
- g. Sec. 09.55.700: "Domestic violence" is defined. It includes assault or battery on the victim or the victim's child, and includes sexual abuse. The term is limited to such acts against relatives, household members and present or former spouses. Programs providing alternative, temporary shelter to victims of domestic violence are defined.

2. Section 2:

Amends the Criminal Code to allow arrest without a warrant for a violation of an Order for Relief committed outside the presence of a peace officer.

3. Section 3:

Provides alternative housing for victims of domestic violence

Senate Judiciary Committee  
April 1, 1980  
Page 3

by granting a preference for ASHA housing, if otherwise eligible.

4. Section 4:

Allows magistrates and district judges to issue emergency ten-day Orders for Relief.

5. Section 5:

Amends certain Court Rules relating to filing of legal papers and issuance of injunctions.

DC/mlm

HB 392 file

720 "M" St. #4  
Anchorage, Alaska 99501  
January 1980

Dear Legislator:

I hope that you and your aide will read the material I have enclosed in this letter. There is a summary of HB392, the bill dealing with domestic violence, and a copy of a story about a battered woman which appeared in Source Line, the newspaper put out by the Women's Resource Center in Anchorage.

The story is of particular importance, not because it is unusual, but because it is so common. You will find it interesting reading.

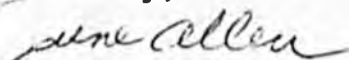
The topic of domestic violence, wife beating and child abuse is no longer a hush hush subject. We are hearing about it daily on the radio and television. Large national organizations are taking up this issue.

I hope the State of Alaska will be among the first to tackle this terrible social ill. By dealing with it now, rather than avoiding it as too controversial, you will be strengthening the family unit in Alaska. Our children learn from their elders. Don't let them go on believing that domestic violence is "normal."

I know what I am talking about because I am a former battered wife. I escaped from that situation with the help of the AWAIC shelter program. I am not ashamed of what I went through--the shame would be in not doing anything about it, and I will not quit working until every abused woman in Alaska has had the chance to learn that she can escape from her predicament.

HB392 languished last year in Judiciary. Much has happened since then. I hope you will give this bill your prompt and enthusiastic attention--  
FOR THE WOMEN OF ALASKA, FOR OUR CHILDREN, AND FOR THE MATE YOUR OWN CHILD WILL SOMEDAY CHOOSE.

Sincerely,



June Allen

# Woman takes husband to court for assault

From: "Source Line" Dec. '79/Jan. '80

Suzon Mejia is being battered. She is living a damned if you do, damned if you don't existence. She has left Pedro "Pepe" Jose Mejia, but he has not left her. He continues to harass her, physically hurt her and basically make it impossible for her to lead a happy or even normal life.

When she first consulted a lawyer in 1976 she was advised to grab her child and run. There are real reasons for a woman not to run, such as family, friends, career, and the resources to be able to leave. But there is another reason not to run. That is the anger, the outrage that you are being forced to leave your

house, your furniture, your plants, everything, to be safe, while he, the one who is causing you to be hurt and maybe killed is allowed to stay in the house. He gets the paychecks, he has the resources behind him while you are essentially back to square one with nothing to show but bruises and pain, humiliation and anger.

That the most successful way to escape battering is to become a fugitive, forever moving just to stay alive, is hardly a sane solution.

Over and over, Suzon was told to run, but she has decided to make her stand. She thought she would be able to receive protection from the law enforcement and legal communities, but these institutions have let her down, forcing her to fight for every gain and seemingly penalizing her for her fight.

The police on the whole have been patronizing and less than diligent in their pursuit of the truth. In one instance, Pepe terrorized her by holding a loaded gun to her head and forcing her to kneel before him to confess imaginary lovers and affairs. Then she was driven around town all night, not knowing when he might kill her. After she finally got help from a jogger who happened along past their car as it sat parked on the Park Strip, she raced her husband back to where her children were, afraid Pepe would carry out his threat to kill them. After this night of fear she was told by a police sergeant, "you women who go back, what do you expect?"

When she finally arrived home, she was informed by Officer Tolson that Pepe was going to be released, and that she had five minutes to clear out before he got home. The final blow was that the police delivered him to her

apartment instead of to his own.

When she called the police the next day from the AWAC shelter, not only was there no report, nothing written up about the incident, but new investigators had been assigned to the case. She was told nothing could be done unless there were witnesses. In an effort to produce a witness, Suzon returned to the Park Strip at 5:30 the next morning in the hope that the jogger-rescuer was a regular. She found him, only to find out that he was a pilot flying out the next day and he didn't know when he would return. He agreed to do whatever he could.

Enter the legal system, which is supposedly set up to protect people's rights - but not the rights of battered women. Often, as in Suzon's case, the charges are shuffled back and forth between the State and Municipal courts.

The State District Attorney would not handle her charge of assault with a deadly weapon as no serious injury was incurred. She was more successful at the Municipality - they had been "left with egg on their face with the Sue Arnold thing" and didn't want a repeat of that. (Sue Arnold was fatally shot by her husband while there was a restraining order out on him.)

Pepe was ordered to API for testing as a result of his incoherent statements at the bond hearing. Less than 24 hours later, in spite of references to their non-existent cat, he was certified sane and let loose. When he violated the terms of the bond and once again contacted Suzon with threats she called the prosecuting attorney, Karen Russell.

Four days later the hearing was finally held. But Judge Tucker decided that the delay indicated that the level of real danger must be relatively low, since if it were high she wouldn't have waited! The \$16,000 bond was remanded to Pepe and a new date was set for a hearing.

A series of new prosecutors followed, which necessitated the telling and retelling of her story. She was constantly afraid of not appearing credible. It takes little to destroy the credibility of a battered woman. The conception that subconsciously the woman really likes the beatings runs strong and deep throughout our society. It is the woman who is on trial to prove that she deserves a chance to live a life without fear. "Don't tell me I look nice," Suzon recently told a friend, "tell me I look credible."

Finally a trial date was set for the 19th and 20th of November. When Suzon inquired about the appearance of her witness, the pilot, she was

told no plans had been made to bring him up as he was out of the court's jurisdiction, and it just couldn't be done. When she asked if it was OK for him to come up on his own, she was told that his company had replied that if so little was thought of what had happened that it was considered just a misdemeanor, they didn't think enough of it to go to the time, trouble, and expense to send him to Anchorage to testify.

Nonetheless, Suzon was told to garner her support and character witnesses and appear in court on Monday. But the preceding Thursday, as she was pre-

paring to speak at a Women's Center brown bag lunch to gather support, she was told that the case had been settled out of court.

There were four charges facing Pepe when he appeared in court; three assault and battery and one malicious destruction of property, all misdemeanors. He pleaded no contest to two of the assault and battery charges, and the other charges were dropped. He was sentenced to 14 days in jail, later reduced to 10; he was ordered to attend the Male Awareness Program at the AWAC shelter; and there is to be no contact with Suzon. As she was only a witness for the Municipality, she was not consulted or informed ahead of time of the decision to settle out of court.

Suzon speaks of her fight for justice, for dignity, for life. In spite of her resolve to keep fighting, there's a sense of tiredness and defeat. "How long can you keep banging your head against walls? People say, oh Suzon, you're so strong, but how strong can you be? You have to do everything yourself, find witnesses, keep calling, keep pushing. The minute I leave their offices they forget me and my case. I'm never called, I must call them, ask them if they've done the next step.... People burn out, how many times can you call your friends in the middle of the night and ask to sleep on their couch?"

It is hard enough working full time and being a mother - Suzon's children are 10 years, 2 years and 11 months. "My son's messed up, failing in school, having nightmares. I can't remember the last time I just held them...."

As she left, I wished her luck and we both smiled. Be careful, I said. She smiled and said, "One more of us has to die, we have to get the statistics up, then maybe we'll be taken seriously." As she left, I found myself wishing I didn't know she was right.

—L. Garne



# LEGAL QUESTIONS AND ANSWERS

We invite our readers to write or call in their questions. A number of different Anchorage attorneys will be answering the questions in each issue. This month, answers are from Don Clocksin of Alaska Legal Services.

## How to send a Public Opinion Message to your legislator

You can send a Public Opinion Message to your legislators to let them know how you feel about a particular issue. The service is provided free of charge in order to encourage public participation in the legislative process. Your legislators need your feedback!

To send a P.O.M., call the Legislative Affairs Office, 278-3668, or go down to their office at 1024 W. 6th Ave. in downtown Anchorage (6th and K St.). Your message will arrive in Juneau the same day you send it.

This service was established to make your legislators accountable to the taxpayers, so why not take advantage of it and let your voice be heard!

## House Bill 392

# to benefit abused women

December 79 - January 80 SourceLine 7

House Bill 392 will be before the Legislature during this next session, starting January 14. Can you explain what HB 392 is, and what it will do for battered women?

Victims of physical attacks by household members are in a unique position. Police often refuse to view these attacks as criminal conduct. The victim is often unaware of what options she has and continues to accept beatings as unavoidable. The economic dependence of battered wives and the fear of injury create a loss of self-respect. The social acceptability of wife-beating and the irrationality of most attacks make the woman feel she is to blame. It is this syndrome which makes spousal abuse a unique and particularly serious problem.

According to the study of The Status of Women in Alaska, Anchorage had an estimated 3.3 reported wife beatings each day. Alaska Legal Services Corporation reports that 70 to 75% of women seeking legal assistance have been beaten by their husbands. Another

study indicates inter-spousal murders accounted for 12% of all murders in the U.S. in 1975.

HB 392 seeks to inform the victim of the available options and to protect her from attack. The bill would require a police officer called to the scene of a domestic attack to advise the victim of her rights and provide assistance. Arrest of the attacker under existing criminal laws would be mandatory in some situations.

The bill would also allow the victim to obtain an emergency Order of Relief to protect from future attacks for up to ten days. After a hearing, such an Order might be issued for 45 days. The court system would be required to prepare forms and instructions so the victim could file for this Order without a lawyer.

The Order would then be provided to the police, and procedures established to assure that all officers knew of the Order. Violation of the Order would be a misdemeanor. A

second violation (i.e., the third attack) would mean three days in jail. Arrest would be mandatory for a violation of the Order for Relief.

Furthermore, law enforcement agencies would be required to include in their training programs information on how to handle domestic violence. Domestic violence is defined in the bill to include assault or battery on the victim or the victim's child, including sexual abuse. The term is limited to such acts against relatives, household members and present or former spouses. Programs providing alternative, temporary shelter to victims are also defined, and provided for by granting a preference for ASHA housing if the victim is otherwise eligible.

This bill was first introduced this spring, sponsored by Hugh Malone with the backing of Alaska Legal Services, the Abused Women's Aid In Crisis shelter, and other groups. If it passes it will greatly help those three to four women per day who are victims of battering.

TELEGRAM

RCA ALASKA COMMUNICATIONS, INC.  
PHONE: 586-6442  
JUNEAU, ALASKA 99802

392 file

#

12039 NL TDFA TOK ALASKA 22 04-12 340P AST

PMS JUDICIARY COMMITTEE

POUCH V

JUN

UNITED CROW BAND SOCIAL SERVICE AGENCY REPRESENTING 6 COMMUNITIES

IN THE UPPER TANANA REGION SUPPORT THE PASSAGE OF HB392

ROSE WOOD SOCIAL SERVICE DIRECTOR UNITED CROW BAND

HB 392

720 M St. #5  
Anchorage 99501  
April 11, 1979

Dear Mr. Malone:

Your name appears first among those who sponsored HB392, the bill dealing with domestic violence. For that I say thank you. I have written to others and am now writing to you to voice my support of this bill.

You are more familiar with the intricacies of the bill than I am, but I, and many more just like me, support it. The section requiring police officers to be educated about domestic violence is probably the most important to me personally.

You see, a batterer can change from a fist swinging animal to a charming, bewildered husband in the ring of a doorbell. I know. My husband looked so genuinely surprised when I called the police after a session of abuse that I almost believed him!

I would have left the situation years ago if I had known how. Women must be advised of their rights, by policeman who act as if they really gave a damn. In those days, however, where would I have gone? I have no family in Anchorage. What would I have used for money? He kept me broke.

But I learned about the AWAIC shelter and I went there. I got temporary housing and meals and counseling for myself and my little girl. I also got the warmth and love of the women there who really cared about what had happened to me. I learned to lose my shame and regain my self-respect.

Please do all you can to see this legislation through.

I wish I could help more, but maybe letters from someone who has "been there" will help a little.

Sincerely,

*June Allen*  
June Allen

HOUSE RESEARCH AGENCY  
Pouch Y - State Capitol  
Juneau, Alaska 99811  
465-3991

MEMORANDUM

January 28, 1980

TO: Representative Brian Rogers  
Attn: Mr. John Hartle

FROM: Jack Kreinheder, Issues Analyst *JK*

RE: Domestic Violence Research (HB 392)  
Research Request No. 15

You have asked if other states have enacted domestic violence legislation similar to HB 392, which would require that police officers provide certain rights to domestic violence victims, and whether such legislation has been effective. I have made the following major findings:

1. Four states have enacted legislation comparable to HB 392: Massachusetts, New Hampshire, Utah, and Washington. Our initial sources indicated that Maine had also done so, but direct contact with Maine officials proved otherwise.
2. Problems with the implementation of the domestic violence legislation were reported in each of the three states I contacted, but the nature and severity of the difficulties are viewed differently by different agencies and organizations.
3. The major problems experienced in other states include: Large variations among communities in enforcement of provisions; lack of funding for police training, uncertain interpretation of provisions by enforcement and judicial agencies; and the lack of shelter facilities for police referrals.
4. It appears that a number of the reported problems are due in part to the very recent enactment of, and

Representative Brian Rogers  
January 28, 1980  
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limited experience with, this type of legislation; New Hampshire, Utah, and Washington passed their domestic violence bills in 1979, while Massachusetts preceded these states by one year. Washington's legislation has been in effect for less than five months.

5. Despite the implementation difficulties, most persons I contacted, particularly those associated with domestic violence assistance organizations, felt that the legislation is benefiting domestic violence victims to some extent, and that the laws will become more effective over time as familiarity with their provisions increases.
6. Certain provisions and proposed amendments in other states may deserve consideration as possible amendments to HB 392.

#### Massachusetts

I obtained the most complete information from Massachusetts, and because HB 392 was modeled after the Massachusetts legislation, it is probably the best example for your purposes. My major contact was an attorney with the Massachusetts Coalition of Battered Women's Service Providers, Chris Butler. She has been conducting a monitoring program on the Massachusetts domestic violence legislation, and has found that enforcement of the law has been inconsistent. Some police departments have been very thorough in reading domestic violence victims their rights, providing transportation to a shelter or hospital, and fulfilling the other requirements of the law. However, Ms. Butler stated that the effectiveness of the law is dependent primarily on the attitudes of supervising officers in each department, and in most cities, compliance with the requirements of the law is poor. She has studied the intake forms of various women's shelter organizations and determined that in most cases, women were not read their rights or offered transportation by police officers responding to domestic violence calls.

The Boston Police Department was mentioned by Ms. Butler as one which was

Representative Brian Rogers  
January 28, 1980  
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not complying with the law. I checked with the department and was told that the officers were carrying out their obligations and that the department had no objections or problems with the law.

Ms. Butler also noted that police have not been staying with domestic violence victims for any length of time, but her organization realizes that extended stays are often not a viable option and is encouraging police to give victims referrals to shelters and to stay with victims while these calls are made. Apparently, this approach has been fairly well received by some departments. On the whole, Ms. Butler said that although the impact of the law on most communities has been slight, there is a growing awareness of the law's provisions among domestic violence victims.

A number of amendments to the Massachusetts domestic violence law have been proposed which may be relevant to HB 392. These amendments would:

1. Require hand delivery by the police of a court summons document describing action against offender when an order requiring financial support of victim is issued. Under current law, the offender is only given notice of the order, without being informed in detail of the court action against him. In Massachusetts, simple notice of the order apparently does not meet legal requirements for monetary compensation.
2. Change the language in the section providing for a hearing for the defendant when a court order is issued. This amendment is important because HB 392 contains almost identical language, and Massachusetts judges have been misinterpreting the intent of the hearing section. The drafters of the Massachusetts law intended that the defendant should be given an opportunity for a hearing, but judges have read the law to require mandatory hearings. Ms. Butler stated that over 50 percent of the time the defendants do not show up at the hearings, and that the misinterpretation is causing a substantial burden on both the courts and on domestic violence victims. The amendment would change the language, the equivalent of which is found in HB 392, Page Four, Line 27, to read that the court shall "notify the defendant that he has five days

Representative Brian Rogers

January 28, 1980

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to file a motion objecting to continuance of said orders".

3. Clarify the law by stating that each of the courts having jurisdiction under the law are to follow their own court rules in handling cases under the law. In both Massachusetts law and HB 392, domestic violence victims can obtain court orders from more than one court, and it was unclear to some Massachusetts judges which rules were to be followed.
4. Provide that court orders directing the defendant to vacate the residence can only be issued against an adult.

Copies of these amendments are being sent by Ms. Butler. Please contact me if you would like to review them when they arrive.

#### Utah

The staff of the Utah Criminal Justice Planning Agency indicated that the major problem with the Utah domestic violence legislation is that no funding was provided to law enforcement agencies for training in carrying out the requirements of the law. It has therefore been difficult to educate police officers about their new obligations under the domestic violence law.

A representative of the Utah Coalition for Aid to Battered Women also commented on the need for police training and education. However, she had a generally positive outlook on the implementation of the law and felt that considering the law was only eight months old, most police departments were making an effort to enforce the law. She did note that, as in Massachusetts, there was considerable variation on this count from city to city.

Law enforcement agencies were involved in the drafting of the domestic violence legislation in Utah, which may explain the relatively high degree of cooperation there. One provision which these agencies included in the legislation was a statement that police officers are not liable for their actions in providing assistance to domestic violence victims.

#### Washington

The Washington domestic violence law is not as strict as those of Massachusetts and Utah. It requires only that police officers notify victims of their right to press charges, that they may provide transportation, and that they take reports of all domestic violence cases.

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Members of the Division of Criminal Justice stated that the major difficulties experienced in implementing the Washington domestic violence law have been lack of funding, uncertain interpretation of some of the provisions of the law, and the lack of shelter facilities in the rural areas of the state. The law does include an appropriation of one million dollars, but only for establishment of shelters and data gathering on the domestic violence problem. The contacts believed that the provisions of the law regarding domestic violence victims were being met for the most part in the more urban areas, but that the lack of shelters in rural areas and the greater difficulty of educating small-town police departments about the law made enforcement less consistent in these areas. Alaska probably has shelters in more of the smaller communities than Washington does, so this problem may not be so important here.

I also contacted an attorney with Evergreen Legal Services who was involved in the drafting of the legislation and has been monitoring its results. She indicated that enforcement, even in the larger cities, is still sporadic, and her firm has made it a practice to contact police departments in cases where domestic violence victims are not advised of their rights or reports are not taken. Again, she felt that the law would probably become more effective over time, and that it was of significant value to domestic violence victims.

#### Summary

New Hampshire, Massachusetts, Utah, and Washington have recently enacted domestic violence legislation extending rights to domestic violence victims similar to the rights in HB 392. Although most persons contacted during this research thought the legislation in their states was having a positive effect on the domestic violence problem, the following problems in implementing the legislation were reported:

1. Enforcement of the domestic violence laws varies greatly from community to community and is largely dependent on the cooperation of individual police departments.
2. Current police training on the requirements of the legislation is insufficient. Funding was not provided in the domestic violence legislation for this purpose.

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3. Some provisions of the Massachusetts and Washington law are unclear and are subject to misinterpretation by police and the courts.
4. The domestic violence legislation in Washington has been less effective in rural areas because of the lack of shelter facilities to which police can take victims, and because the police education process is slower than in urban areas.

JK/bf

# MEMORANDUM

State of Alaska

TO: Lt. Colonel James D. Vaden  
Deputy Director  
Alaska State Troopers

DATE: February 1, 1980

FILE NO:

TELEPHONE NO:

FROM: Captain Walter J. Gilmore *WJG*  
Commander  
Support Services Bureau

SUBJECT: Sub-House Bill 392

Pursuant to instructions to contact the Seattle Police Department for impact of their past year's legislation concerning Domestic Violence and a review of House Bill 392, contact was made with Major Paul Knapp Criminal Investigation Division, who summarized the impact as, additional paperwork without additional funds; with a complete change of previous concepts, such as mediation and arbitration of domestic matters to keep them out of court, and legislation specifically laying out mechanics insuring court action.

The impact is not measured at this time for lack of data, but the Prosecutor's Office has had to change their policy, however, they are still relying on the screening by police to substantiate probable cause. (Major Knapp's letter attached)

The material provided on Washington State Law, sub-House Bill 554, May 1979, deals totally with shelters. (see attached)

Sub-House Bill 438 passed Washington Legislature April 1979. It is primarily a paperwork bill which advises the police which criminal statutes are to be recorded as domestic.

Section three requires additional training for police officers on domestic violence law and then details action to be taken by the police officer.

1. Enforce Laws, Protect Complainants.
2. Arrest with Probable Cause.
3. Take a Complete Offense Report.
4. Offer, Arrange or Facilitate Transportation.
5. Send ALL Offense Reports to Prosecutor on ALL Incidents of Domestic Violence.
6. Develop a Computer System of Retrieval.

Section four orders court priority of cases.

Section five limits movement of convicted persons.

7. A police officer may NOT be held liable for civil action based on enforcement action taken with regard to this section.

Alaska House Bill 392 lists specific tasks for the officer to do in every situation.

1. Stay on the scene until all danger passes.
2. Provide transportation to nearest health provider or hospital.
3. Assist the victim in moving.
4. Provide legal advise concerning all possible options which might be afforded by law.
5. Arrest the assailant.
  - a. on view
  - b. on probable cause
6. The officer is then responsible for stating to the complainant, "you have the right to demand the police officer to do the following",
  - a. stay as long as you wish
  - b. take you to the hospital or health provider
  - c. take you to a safe place
  - d. tell you how to contact the nearest shelter

The officer is then to explain five options that the COURT will be ordered to DO.

Then the proposal lays out specific requirements for the courts to grant under order, for police:

1. Restrain the assailant.
2. Tell him to get out of the house.
3. No contact.

Then within three days have a hearing.

The court is to make forms so it is not necessary for attorneys to file for court orders.

Section 09.55.670 says the court will notify law enforcement agencies of court orders and that "law enforcement agencies shall establish procedures to inform all their police officers of the existence and terms of orders.

Section 09.55.680 provides for training of police officers to comply with the provisions of this law.

Section 09.55.690 provides criminal penalties for violations of court orders and that the police will arrest for violation of those orders. (this is absolutely new)

Section 18.55.30, preference for veterans and victims of domestic violence, is a housing finance section.

Alaska Criminal Law allows for probable cause arrests in domestic situations.

Many areas need shelter networks to provide both emergency and longer term support for victims of domestic violence.

**CONCLUSION:**

Washington Legislature has created a large amount of paperwork, more cost and no measureable results in reduction of domestic violence, but is limited in scope to the areas.

House Bill 392 is a conglomeration of attempts to Legislate, police officer response, court response, housing, referral and finance, and hold the police officer responsible for carrying out the entire program by training the officer in this bill.

Almost every aspect of this bill is either too broad and does not allow for the latitude of Statewide enforcement, or it is so narrow, that it precludes judgement at a specific violence situation.

WJG:pa

Attachment



# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

Official Business

Pouch V  
State Capitol  
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House  
Judiciary Committee

FROM: Margaret W. Berck, Staff *MWB*

DATE: January 29, 1980

RE: Proposed CS for HB 392

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The attached bill reflects certain amendments the Committee desires to consider in its Committee Substitute for HB 392. Perhaps the most significant amendment occurs on the last page of the bill and deals with amending Title 12's provision on the arresting authority of peace officers. The bill as amended would mandate that peace officers arrest an individual who violates the court order by committing an act, which by virtue of the order, constitutes a misdemeanor. This mandatory arrest would be required whether or not the offense occurred in the presence of the peace officer. Under existing law (the new Criminal Code), a peace officer may arrest an individual who is thought to have committed a misdemeanor only in two circumstances: one, for the misdemeanor that occurred in his presence, and two, for the domestic assault of the third degree that occurred out of his presence. In either case, the peace officer must have reason to believe that the offense occurred and the arrested person committed it. Since the violation of the court order might not involve an assault in the third degree, but rather, for example, merely a phone call to the victim, if the Committee desires the person enjoined by the order to be arrested for such type of conduct occurring out of the officer's presence, then the existing arresting authority of the peace officer must be enlarged.

Should the Committee decide not to enlarge the existing arrest authority, this may be accomplished by deleting the section of the attached bill that amends Title 12 (on last page) and clarifying the language in subsection (b) of section 690 (see page 6, lines 12-14 of attached bill). To clarify that subsection I would suggest the following language be inserted for that entire subsection: "(b) A

peace officer shall, consistent with AS 12.25.030, arrest a person who violates an order described in AS 09.55.660(a)(1), (2) or (3) if the order is in full force and effect." The practical effect of this alternative is as follows. A peace officer would be required to arrest a person who is enjoined by an order for all violations of the order occurring in the presence of the peace officer and for those acts which would constitute assault in the third degree regardless of whether such conduct occurred in the presence of the peace officer.

It should be noted that the entire discussion above pertains to warrantless arrests. To date Alaska law provides only two exceptions to the common law warrantless arrest authority: one, for the OMVI situation, and two, for the domestic assault in the third degree.

1 IN THE HOUSE

2 CS for HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending  
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
12 has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim  
13 of domestic violence, the officer shall use all reasonable means to  
14 prevent further domestic violence and to assure the safety of the  
15 victim, including

16 (1) remaining on the scene of the domestic violence as long  
17 *the officer believes that* as <sup>^</sup>there would be a danger to the physical safety of the victim without  
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical  
20 treatment, ~~if necessitated by an assault~~ including transportation to the  
21 emergency room of the nearest hospital or to the nearest health  
22 provider~~s~~, *if the peace officer believes it is necessary;*

23 (3) assisting the victim in removing to a safe place nearby,  
24 or to the nearest facility offering shelter to victims of domestic  
25 violence;

26 (4) giving the victim immediate notice of rights provided  
27 under this section and of the existence of the nearest facility offering  
28 shelter to victims of domestic violence;

29 (5) arresting the assailant *As provided in AS 12.25.030.*

1                   (A) ~~if the peace officer has reasonable cause to believe~~  
2 ~~that the assailant has committed domestic violence which is a~~  
3 ~~felony,~~

4                   (B) ~~if domestic violence which is a misdemeanor is~~  
5 ~~committed in his presence, or~~

6                   (C) ~~under the circumstances set out in AS 12.25.030(b).~~

7                   (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall ~~read and~~ give  
9 to the victim/ *AND will read to the victim if circumstances allow:*

10                   "As a victim of domestic violence you ~~have the right~~  
11 *MAY REQUEST* ~~under law to demand~~ that the officer present do the following  
12 things:

- 13                   (1) stay as long as needed to make sure that you are safe;  
14                   (2) take you to the nearest hospital or health provider  
15 if you need medical care~~X~~.

16                   As a victim of domestic violence you HAVE the  
17 right to demand that the officer present do the  
18 following things:

- 19                   (1) ~~(3)~~ take you to a place nearby where you will be safe if  
20 you want to leave here; and  
21                   (2) ~~(4)~~ tell you how to contact the nearest organization that  
22 offers aid or shelter to victims of domestic violence.

23                   You HAVE the right to ASK the COURT to ISSUE AN  
24 order protecting you AND your children from domestic  
25 violence AND providing other necessary assistance,  
26 which MAY include ordering the Attacker out of  
27 your home and giving you temporary custody of  
28 your children.

1 ~~loss of earnings or support or other costs for injuries you~~  
2 ~~or your children received.~~

3 If ~~your~~ <sup>the</sup> attacker does not obey a court order to get out  
4 of the house or to leave you alone, ~~your~~ <sup>the</sup> attacker can be  
5 arrested immediately. To get a court order contact the  
6 superior court in (name of place) and they will help you.  
7 You must do this within 10 days. To get an order quickly  
8 in an emergency, you may also contact the district court  
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect ~~you~~ <sup>or your children.</sup> You also  
11 have the right to file a criminal complaint against your  
12 attacker."

13 (c) If the victim does not understand English, the officer shall  
14 make reasonable efforts to explain the rights provided in this section  
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
17 violence who is an adult or an emancipated minor may, within 10 days of  
18 the act of domestic violence, petition a superior court or, if the  
19 circumstances described in (c) of this section exist, petition a dis-  
20 trict judge or magistrate under (c) of this section for an order

- 21 (1) restraining the assailant from subjecting the petitioner  
22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-  
24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner  
27 or for the minor children in the care of the petitioner if there is an  
28 independent legal obligation of the assailant to support the petitioner  
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds ~~that the petitioner has been~~  
12 ~~subjected to domestic violence by the respondent,~~ *the Allegations of*  
13 *the petitioner to be true,* the superior court may  
14 issue any of the orders for relief described in (a) of this section or  
15 any other order the superior court determines to be necessary for the  
16 protection of the health, safety and welfare of the petitioner or of a  
17 minor child in the care of the petitioner.

18 (c) The superior court or a district judge or magistrate may issue  
19 a temporary order without following the notice and hearing requirements  
20 of (b) of this section if (1) the petitioner demonstrates a substantial  
21 likelihood of immediate danger from the respondent to the health, safety  
22 or welfare of the petitioner or of a minor child in the care of the  
23 petitioner; and (2) the court or district judge or magistrate determines  
24 that the order is necessary to protect the petitioner or a minor child  
25 in the care of the petitioner. Immediately after issuing a temporary  
26 order under this subsection or upon receiving notice of an order issued  
27 by a district judge or magistrate under this subsection, the superior  
28 court shall notify the respondent and give the respondent an opportunity  
29 to be heard as soon as possible, but in no event later than 10 days,  
30 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be  
3 for a fixed period of time not to exceed 45 days; however, upon motion  
4 by the petitioner and after hearing, the superior court may issue an  
5 order for an additional period of time as it considers necessary to  
6 protect the petitioner from domestic violence. The superior court may  
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other  
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
11 system, in cooperation with interested persons and organizations, shall  
12 prepare forms and instructions for the use of persons seeking an order  
13 for relief under AS 09.55.660, including forms for waiving filing fees  
14 on the basis of indigency. The forms shall conform to the requirements  
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
16 information on the forms may be filled in by legible handwriting. The  
17 office of the clerk of each superior court shall make the forms and  
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
20 superior court, district judge or magistrate issues an order described  
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or  
22 magistrate shall transmit a copy of the order to the appropriate local  
23 law enforcement agency. Law enforcement agencies shall establish pro-  
24 cedures adequate to inform their peace officers of the existence and  
25 terms of orders transmitted to the law enforcement agencies under this  
26 section. Peace officers shall use every reasonable means to enforce the  
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-  
2 cers, which acquaint peace officers with the rights of the victim of  
3 domestic violence, the types of orders which may be issued under AS 09.-  
4 55.660, and techniques for handling incidents of domestic violence which  
5 promote the safety of the victim and reduce the likelihood of recur-  
6 rence.

7  
8 Sec. 09.55.690. CRIMINAL PENALTIES. *(a) An intentional violation of an order*  
9 *described in AS 09.55.660(a)(1), (2) or (3) is a CLASS B misdemeanor.*  
10 ~~by imprisonment for up to 60 days, or by a fine of up to \$500, or by~~  
11 ~~both.~~ A second violation of an order described in AS 09.55.660(a)(1),  
(2) or (3) is punishable by ~~no less than three days imprisonment.~~  
a minimum sentence of imprisonment not less than 3 consecutive  
days (72 consecutive hours). The execution  
of a sentence may not be suspended nor may probation or parole  
be granted until the minimum imprisonment provided in this  
section has been served, nor may imposition of sentence be  
suspended, except upon condition that the defendant be  
imprisoned for no less than the minimum period provided in  
this section.

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(b) A peace officer shall arrest <sup>^</sup> and ~~detain~~ a person found by the  
peace officer to be in violation of an order described in AS 09.55.660-  
(a)(1), (2) or (3) if the order is in full force and effect.

Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
09.55.700,

(1) "domestic violence" means the intentional perpetration of  
any of the following acts by a person against a household member, a  
spouse, former spouse, or blood relative of the person:

(A) attempting to cause or causing physical harm to the  
other person or to a minor child in the care of the other person;

(B) placing the other person or a minor child in the  
care of the other person in fear of imminent serious physical harm;

(C) causing the other person to engage involuntarily in  
sexual relations by force, threat of force or duress;

(2) "facility offering shelter to victims of domestic vio-  
lence" includes facilities offering programs which provide emergency or  
short-term lodging or housing for adults who are victims of domestic  
violence and their children.

*consistent with the provisions of AS 12.25.03 D,*

1 \* Sec. 2. AS 18.55.330 is amended to read:

2       Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If <sup>After the 30 day period,</sup> [after an additional 30 days] a  
10 unit remains unassigned, the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS] <sup>shall</sup> have first  
13 preference and other residents have second preference.

14       (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence <sup>shall</sup> have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion.

18       (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23  
24       (d) Notwithstanding AS 18.55.110, the preferences in this  
25 section for veterans and victims of domestic violence are  
26 equally applicable to housing projects receiving financial  
27 aid, assistance, or cooperation from the federal government  
28 unless the Department of Housing and Urban Development  
29 prohibits or disapproves these preferences for such housing  
30 projects.

\* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

(9) to issue a temporary order in domestic violence cases as provided in AS 09.55.660(c); the district judge or magistrate shall notify the superior court immediately upon issuance of the temporary order.

\* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
2 cedure, by allowing the courts to accept for filing petitions which are hand-  
3 written in part. Section 1 of this Act also has the effect of amending Rule  
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure  
5 for obtaining orders for relief from domestic violence.  
6  
7

8 \* Sec. 5. AS 12,25.030 (b) is amended to read:

9 (b) In addition to the authority granted under (a)  
10 of this section, a peace officer without a warrant  
11 (MAY ARREST A PERSON WHEN HE HAS REASONABLE CAUSE FOR  
12 BELIEVING THAT THE PERSON HAS COMMITTED ASSAULT IN THE  
13 THIRD DEGREE UNDER AS 11.41.230(a)(1) AGAINST A MEMBER OF  
14 THE PERSON'S HOUSEHOLD) :

15 (1) may arrest a person when he has reasonable cause for  
16 believing that the person has committed assault in the  
17 third degree under AS 11.41.320(a)(1) against a member of the  
18 person's household;

19 (2) shall arrest a person when he has reasonable cause  
20 for believing that the person has committed an act in violation  
21 of an order described in AS 09.55.650-(a)(1), (2), or (3) if  
22 the order is in full force and effect.

23 (3) As used in this section "household" means the social  
24 unit comprised of those living together in the same dwelling.  
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# Alaska State Legislature

## House of Representatives

### Committee on Judiciary

HB 392  
file  
Pouch V  
State Capitol  
Juneau, Alaska 99811

Official Business

TO: Charlie Parr, Chairman, and Members of the House Judiciary  
Committee

FROM: Margaret W. Berck, Staff *MWB*

DATE: January 23, 1980

RE: HB 392

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On January 22, 1980, I met with Rick Svobodny, Assistant Attorney General, and Bruce Horowitz, Alaska Legal Services. The purpose of this meeting was to determine what amendments might be made to HB 392 which would resolve some of the problems raised concerning this bill and which would be agreeable to both the Attorney General's Office and Alaska Legal Services. The results of this meeting are reflected in the attached bill, amended as noted, and are provided for your information.

Introduced: 3/14/79  
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,  
DUNCAN, HAYES, MEEKINS, MILLER,  
PARR, ROGERS, SCHAEFFER AND  
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending  
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
12 has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim  
13 of domestic violence, the officer shall use all reasonable means to  
14 prevent further domestic violence and to assure the safety of the  
15 victim, including

16 (1) remaining on the scene of the domestic violence as long  
17 *the officer believes that* as there would be a danger to the physical safety of the victim without  
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical  
20 treatment ~~if necessitated by an assault~~, including transportation to the  
21 emergency room of the nearest hospital or to the nearest health  
22 provider, *if the peace officer believes it is necessary;*

23 (3) assisting the victim in removing to a safe place nearby,  
24 or to the nearest facility offering shelter to victims of domestic  
25 violence;

26 (4) giving the victim immediate notice of rights provided  
27 under this section and of the existence of the nearest facility offering  
28 shelter to victims of domestic violence;

29 (5) arresting the assailant *AS provided in*  
*AS 12.25.030;*

1 ~~(A) if the peace officer has reasonable cause to believe~~  
2 ~~that the assailant has committed domestic violence which is a~~  
3 ~~felony;~~

4 ~~(B) if domestic violence which is a misdemeanor is~~  
5 ~~committed in his presence, or~~

6 ~~(C) under the circumstances set out in AS 12.25.030(b);~~

7 (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall read and give  
9 to the victim AND will read to the victim if circumstances

10 allow: "As a victim of domestic violence you may request  
~~have the right~~

11 ~~under law to demand~~ that the officer present do the following  
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;  
14 (2) take you to the nearest hospital or health provider

15 if you need medical care;

16 "As a victim of domestic violence you have the right to demand that the  
17 officer present do the following  
18 things:  
19 (1) (2) take you to a place nearby where you will be safe if  
20 you want to leave here; and

21 (2) (4) tell you how to contact the nearest organization that  
22 offers aid or shelter to victims of domestic violence.

23 You have the right to ask the court to issue an order to protecting you  
24 from domestic violence and providing other necessary  
25 and your children ~~do any or all of the following things:~~ ASSISTANCE,

26 ~~(1) order your attacker to stop hurting or threatening~~  
27 ~~you or your children;~~

28 ~~(2) order your attacker to get out of the house;~~

29 ~~(3) order your attacker not to communicate with you~~  
30 ~~in any way;~~

31 (4) give you temporary custody of your children;

32 (5) order your attacker to pay for your costs which  
33 result from the attack; including medical and moving costs.

that the  
officer  
present do  
the following  
things:  
which may  
include  
1) Ordering the  
attacker to  
stay away from  
the home  
2) Temporary  
custody  
of the  
children

1 ~~loss of earnings or support, or other costs for injuries you~~  
2 ~~or your children received.~~

3 If ~~your~~ <sup>the</sup> attacker does not obey a court order to get out  
4 of the house or to leave you alone, ~~your~~ <sup>the</sup> attacker can be  
5 arrested immediately. To get a court order contact the  
6 superior court in (name of place) and they will help you.  
7 You must do this within 10 days. To get an order quickly  
8 in an emergency, you may also contact the district court  
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you. <sup>or your children</sup> You also  
11 have the right to file a criminal complaint against your  
12 attacker."

13 (c) If the victim does not understand English, the officer shall  
14 make reasonable efforts to explain the rights provided in this section  
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
17 violence who is an adult or an emancipated minor may, within 10 days of  
18 the act of domestic violence, petition a superior court or, if the  
19 circumstances described in (c) of this section exist, petition a dis-  
20 trict judge or magistrate under (c) of this section for an order

- 21 (1) restraining the assailant from subjecting the petitioner  
22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-  
24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner  
27 or for the minor children in the care of the petitioner if there is an  
28 independent legal obligation of the assailant to support the petitioner  
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds that the petitioner has been  
12 subjected to domestic violence by the respondent, the superior court may  
13 issue any of the orders for relief described in (a) of this section or  
14 any other order the superior court determines to be necessary for the  
15 protection of the health, safety and welfare of the petitioner or of a  
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue  
18 a temporary order without following the notice and hearing requirements  
19 of (b) of this section if (1) the petitioner demonstrates a substantial  
20 likelihood of immediate danger from the respondent to the health, safety  
21 or welfare of the petitioner or of a minor child in the care of the  
22 petitioner; and (2) the court or district judge or magistrate determines  
23 that the order is necessary to protect the petitioner or a minor child  
24 in the care of the petitioner. Immediately after issuing a temporary  
25 order under this subsection or upon receiving notice of an order issued  
26 by a district judge or magistrate under this subsection, the superior  
27 court shall notify the respondent and give the respondent an opportunity  
28 to be heard as soon as possible, but in no event later than 10 days,  
29 after the order is issued on the question of continuing the temporary  
30

1 order.

2 (d) Relief granted by a superior court under this section shall be  
3 for a fixed period of time not to exceed 45 days; however, upon motion  
4 by the petitioner and after hearing, the superior court may issue an  
5 order for an additional period of time as it considers necessary to  
6 protect the petitioner from domestic violence. The superior court may  
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other  
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
11 system, in cooperation with interested persons and organizations, shall  
12 prepare forms and instructions for the use of persons seeking an order  
13 for relief under AS 09.55.660, including forms for waiving filing fees  
14 on the basis of indigency. The forms shall conform to the requirements  
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
16 information on the forms may be filled in by legible handwriting. The  
17 office of the clerk of each superior court shall make the forms and  
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
20 superior court, district judge or magistrate issues an order described  
21 in AS 09.55.660(4)(1), (2) or (3), the superior court, district judge or  
22 magistrate shall transmit a copy of the order to the appropriate local  
23 law enforcement agency. Law enforcement agencies shall establish pro-  
24 cedures adequate to inform their peace officers of the existence and  
25 terms of orders transmitted to the law enforcement agencies under this  
26 section. Peace officers shall use every reasonable means to enforce the  
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
29 agencies shall establish training procedures for peace officers, or

shall include training in existing training procedures for peace officers, which acquaint peace officers with the rights of the victim of domestic violence, the types of orders which may be issued under AS 09.55.660, and techniques for handling incidents of domestic violence which promote the safety of the victim and reduce the likelihood of recurrence.

Sec. 09.55.690. CRIMINAL PENALTIES. (a) <sup>An intentional</sup> violation of an order described in AS 09.55.660(a)(1), (2) or (3) is a misdemeanor, punishable <sup>CLASS E</sup> by ~~imprisonment for up to 60 days, or by a fine of up to \$500, or by both.~~ A second violation of an order described in AS 09.55.660(a)(1), (2) or (3) is punishable by ~~no less than three days imprisonment.~~

(b) A peace officer shall arrest and detain a person found by the peace officer to be in violation of an order described in AS 09.55.660-<sup>See attachment for amendment to be inserted</sup> (a)(1), (2) or (3) if the order is in full force and effect. <sup>consistent with the provision of AS 12.25.030.</sup>

Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 - 09.55.700,

(1) "domestic violence" means the intentional perpetration of any of the following acts by a person against a household member, a spouse, former spouse, or blood relative of the person:

(A) attempting to cause or causing physical harm to the other person or to a minor child in the care of the other person;

(B) placing the other person or a minor child in the care of the other person in fear of imminent serious physical harm;

(C) causing the other person to engage involuntarily in sexual relations by force, threat of force or duress;

(2) "facility offering shelter to victims of domestic violence" includes facilities offering programs which provide emergency or short-term lodging or housing for adults who are victims of domestic violence and their children.

1 \* Sec. 2. AS 18.55.330 is amended to read:

2           Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If, after an additional 30 days a  
10 unit remains unassigned, the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS] have first  
13 preference and other residents have second preference.

14           (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion.

18           (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 \* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24           (9) to issue a temporary order in domestic violence cases as  
25 provided in AS 09.55.660(c); the district judge or magistrate shall  
26 notify the superior court immediately upon issuance of the temporary  
27 order.

28 \* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska  
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
2 cedure, by allowing the courts to accept for filing petitions which are hand-  
3 written in part. Section 1 of this Act also has the effect of amending Rule  
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure  
5 for obtaining orders for relief from domestic violence.

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Introduced: 2/2/79  
Referred: Judiciary and  
Finance

BY ZIEGLER, BRADLEY, MELAND, RODEY,  
STIMSON AND STURGULEWSKI

1 IN THE SENATE

2 SENATE BILL NO. 104 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the court of appeals; and pro-  
7 viding for an effective date."

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

9 \* Section 1. AS 22 is amended by adding a new chapter to read:

10 CHAPTER 07. THE COURT OF APPEALS.

11 Sec. 22.07.010. ESTABLISHMENT. There is established the court of  
12 appeals, consisting of three judges.

13 Sec. 22.07.020. JURISDICTION. (a) The court of appeals has  
14 appellate jurisdiction in actions and proceedings commenced in the  
15 superior court involving:

- 16 (1) criminal prosecution;
- 17 (2) post-conviction relief; *Rule 35*
- 18 (3) waiver of children's court jurisdiction over a minor  
19 *no Hugh* under AS 47.10; *unamendable to treatment - not rehab by age 20*
- 20 (4) extradition;
- 21 (5) habeas corpus;
- 22 (6) revocation of probation or parole;
- 23 (7) bail; and
- 24 *no Hugh* (8) appeal to the superior court from a decision of an  
25 administrative agency.

26 (b) The court of appeals has appellate jurisdiction in all actions  
27 and proceedings commenced in the district court and may, in its discre-  
28 tion, remand a district court matter to the superior court for a trial  
29 de novo in whole or in part.

1 (c) The court of appeals may issue injunctions, writs and all  
2 other process necessary for the complete exercise of its jurisdiction.

3 (d) The court of appeals has jurisdiction to hear appeals of  
4 sentences of imprisonment imposed by the superior court or the district  
5 court on the grounds that the sentence is excessive or too lenient and,  
6 in the exercise of this jurisdiction, may modify the sentence as pro-  
7 vided by law and the state constitution.

8 (e) An appeal to the court of appeals is a matter of right in all  
9 actions and proceedings within its jurisdiction, except that

10 (1) there is no right of appeal to the court of appeals in a  
11 case for which direct review by the supreme court has been provided by  
12 rule; and

13 (2) the state has no right of appeal in criminal cases except  
14 to test the sufficiency of the indictment or information or to appeal a  
15 sentence on the ground it is too lenient under (d) of this section.

16 Sec. 22.07.030. REVIEW BY SUPREME COURT. A party may apply to the  
17 supreme court for review of a final decision of the court of appeals in  
18 accordance with AS 22.05.010 and rules adopted by the supreme court. In  
19 this section, "final decision" means a decision or order other than a  
20 dismissal by consent of all parties that closes a matter in the court of  
21 appeals.

22 Sec. 22.07.040. QUALIFICATIONS OF JUDGES. A judge of the court of  
23 appeals shall be a citizen of the United States and of the state, a  
24 resident of the state for three years immediately preceding his appoint-  
25 ment, have been engaged for not less than eight years immediately pre-  
26 ceding his appointment in the active practice of law, and at the time of  
27 appointment be licensed to practice law in the state. For purposes of  
28 this section, the active practice of law shall be the same as defined  
29 for the justices of the supreme court in AS 22.05.070.

*Memo  
Coming*

*1/27  
@mitchell  
only*

1           Sec. 22.07.050. OATH OF OFFICE. Each judge of the court of  
2 appeals, upon entering office, shall take and subscribe to an oath of  
3 office required of all officers under the constitution and such further  
4 oath or affirmation as may be prescribed by law.

5           Sec. 22.07.060. APPROVAL OR REJECTION. Each judge of the court of  
6 appeals is subject to approval or rejection as provided in the Alaska  
7 Election Code (AS 15). The judicial council shall conduct an evaluation  
8 of each judge before his retention election and shall provide to the  
9 public information about the judge and may provide a recommendation  
10 regarding his retention or rejection. The information and any recommen-  
11 dation shall be made public at least 30 days before the election. The  
12 judicial council shall also provide the information and any recommenda-  
13 tion to the office of the lieutenant governor in time for publication in  
14 the election pamphlet under AS 15.57.025. If a majority of those voting  
15 on the question rejects the candidacy of a judge, he may not for a  
16 period of four years thereafter be appointed to fill a vacancy in the  
17 supreme court, the court of appeals, or the superior court of the state.

18           Sec. 22.07.070. VACANCIES. (a) The governor shall fill a vacancy  
19 or appoint a successor to fill an impending vacancy in the office of  
20 judge of the court of appeals within 45 days after receiving nominations  
21 from the judicial council, by appointing one of two or more persons  
22 nominated by the council for each actual or impending vacancy. An  
23 appointment to fill an impending vacancy becomes effective upon the  
24 actual occurrence of the vacancy.

25           (b) The office of a judge of the court of appeals becomes vacant  
26 90 days after the election at which he is rejected by a majority of  
27 those voting on the question or for which he fails to file his declara-  
28 tion of candidacy to succeed himself. Upon the occurrence of (1) an  
29 actual vacancy; (2) the certification of rejection following an elec-

tion; or (3) the failure of a judge to file a declaration of candidacy to succeed himself, the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; however, the 45-day period may be extended by the judicial council with the concurrence of the supreme court. In the event of an impending vacancy other than by reason of rejection or failure to file a declaration of candidacy, the judicial council may meet at any time within the 90-day period immediately preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

Sec. 22.07.080. RESTRICTIONS. A judge of the court of appeals while holding office may not practice law, or engage in the conduct of any other profession, vocation or business for profit or compensation, which conduct would interfere with his performance of his judicial duties, nor may he hold office in a political party, or hold any other office or position of profit under the United States, the state or its political subdivisions. A judge of the court of appeals filing for another elective public office forfeits his judicial position.

Sec. 22.07.090. COMPENSATION. (a) Each judge of the court of appeals is entitled to receive annual compensation prescribed in accordance with AS 39.23. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

(b) A salary warrant may not be issued to a judge of the court of appeals until he has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the judge for opinion or decision has been incompleated or undecided by him for a period of more than six months.

Sec. 22.07.100. PROCESS. Process of the court of appeals shall be

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in the name of the State of Alaska, signed by the clerk of the court or his deputy, dated when issued, sealed with the seal of court, and made returnable according to rule prescribed by the supreme court.

\* Sec. 2. AS 22.05.010 is repealed and re-enacted to read:

Sec. 22.05.010. JURISDICTION. (a) The supreme court has final appellate jurisdiction in all actions and proceedings.

(b) Appeal to the supreme court is a matter of right only in those actions and proceedings from which there is no right of appeal to the court of appeals under AS 22.07.020.

(c) The supreme court may in its discretion review a final decision of the court of appeals on its own motion or on application of a party under AS 22.07.030.

(d) The supreme court may issue injunctions, writs and all other process necessary to the complete exercise of its jurisdiction.

\* Sec. 3. AS 22.05 is amended by adding a new section to read:

Sec. 22.05.015. TRANSFER OF APPELLATE CASES. (a) The supreme court may transfer to the court of appeals for decision a case pending before the supreme court if the case is within the jurisdiction of the court of appeals.

(b) The supreme court may take jurisdiction of a case pending before the court of appeals if the supreme court determines that

(1) the case involves a significant question of law under the Constitution of the United States or of the state or an issue of substantial public interest that should be determined by the supreme court; or

(2) the transfer will further the efficient administration of justice.

(c) The supreme court may provide by rule that review of an appeal to the superior court from an administrative agency be by the supreme

*How decide? argue again?*  
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*open!*

1 court rather than by the court of appeals under AS 22.07.020(8).

2 (d) A case filed in the supreme court or in the court of appeals  
3 may not be dismissed by one court on the sole ground that it is within  
4 the jurisdiction of the other court. The case shall be transferred to  
5 the proper court.

6 \* Sec. 4. AS 22.05.060 is amended to read:

7 Sec. 22.05.060. SEALS OF COURT. The seal of the supreme court is  
8 a vignette of the official flag of the state with the words "Seal of the  
9 Supreme Court of the State of Alaska" surrounding the vignette. The  
10 supreme court shall prescribe by rule the seals of court for the court  
11 of appeals and for the superior and district courts.

12 \* Sec. 5. AS 22.05.100 is amended to read:

13 Sec. 22.05.100. APPROVAL OR REJECTION. Each supreme court justice  
14 is subject to approval or rejection as provided in the Alaska Election  
15 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-  
16 tion of each justice before his retention election and shall provide to  
17 the public information about that justice and may provide a recommenda-  
18 tion regarding his retention or rejection. Such information and any  
19 recommendation shall be made public at least 30 days before the reten-  
20 tion election. The judicial council shall also provide such information  
21 and any recommendation to the office of the lieutenant governor in time  
22 for publication in the election pamphlet under AS 15.57.025. If a  
23 majority of those voting on the question rejects his candidacy, he shall  
24 not be appointed to fill any vacancy in the supreme court, court of  
25 appeals or superior courts of the state for a period of four years  
26 thereafter.

27 \* Sec. 6. AS 22.10.020(a) is amended to read:

28 (a) The superior court is the trial court of general jurisdiction,  
29 with original jurisdiction in all civil and criminal matters, including

1 but not limited to probate and guardianship of minors and incompetents.  
2 The jurisdiction of the superior court extends over the whole of the  
3 state. The superior court and its judges may issue injunctions, writs  
4 of review, mandamus, prohibition, habeas corpus and all other writs  
5 necessary or proper to the complete exercise of its jurisdiction. A  
6 writ of habeas corpus may be made returnable before any judge of the  
7 superior court. The superior court has jurisdiction in all matters  
8 appealed to it from an [A SUBORDINATE COURT, OR] administrative agency  
9 when appeal is provided by law. Appeals are a matter of right [, BUT NO  
10 APPEAL FROM A SUBORDINATE COURT MAY BE TAKEN BY THE DEFENDANT IN A  
11 CRIMINAL CASE AFTER A PLEA OF GUILTY, EXCEPT ON THE GROUND THAT THE  
12 SENTENCE WAS EXCESSIVE, AS FURTHER PROVIDED BY THIS SECTION. NO APPEAL  
13 MAY BE TAKEN BY THE STATE, EXCEPT TO TEST THE SUFFICIENCY OF AN INDICT-  
14 MENT OR INFORMATION. AN APPEAL TO THE SUPERIOR COURT MAY BE TAKEN ON  
15 THE GROUND THAT A SENTENCE OF IMPRISONMENT OF 180 DAYS OR MORE WAS  
16 EXCESSIVE AND THE SUPERIOR COURT IN THE EXERCISE OF THIS JURISDICTION  
17 HAS THE POWER TO MODIFY THE SENTENCE APPEALED FROM UPWARD OR DOWNWARD].  
18 The hearings on appeal from a final order or judgment of an [A SUBOR-  
19 DINATE COURT OR] administrative agency shall be on the record unless the  
20 superior court, in its discretion, grants a trial de novo, in whole or  
21 in part.

22 \* Sec. 7. AS 22.10.150 is amended to read:

23 Sec. 22.10.150. APPROVAL OR REJECTION. Each superior court judge  
24 is subject to approval or rejection as provided in the Alaska Election  
25 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-  
26 tion of each judge before his retention election and shall provide to  
27 the public information about the judge and may provide a recommendation  
28 regarding his retention or rejection. Such information and any recom-  
29 mendation shall be made public at least 30 days before the retention

1 election. The judicial council shall also provide such information and  
2 any recommendation to the office of the lieutenant governor in time for  
3 publication in the election pamphlet under AS 15.57.025. If a majority  
4 of those voting on the question rejects his candidacy, he shall not for  
5 a period of four years thereafter be appointed to fill any vacancy in  
6 the supreme court, court of appeals or superior courts of the state.

7 \* Sec. 8. AS 22.15.195 is amended to read:

8 Sec. 22.15.195. APPROVAL OR REJECTION. Each district court judge  
9 is subject to approval or rejection as provided in the Alaska Election  
10 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-  
11 tion of each judge before his retention election and shall provide to  
12 the public information about the judge and may provide a recommendation  
13 regarding his retention or rejection. Such information and the recom-  
14 mendation shall be made public at least 30 days before the election.  
15 The judicial council shall also provide such information and any recom-  
16 mendation to the office of the lieutenant governor in time for publica-  
17 tion in the election pamphlet under AS 15.57.025. If a majority of those  
18 voting on the question rejects his candidacy, he shall not for a period  
19 of four years thereafter be appointed to fill any vacancy in the supreme  
20 court, court of appeals, superior courts or district courts of the  
21 state.

22 \* Sec. 9. AS 22.15.240 is amended to read:

23 Sec. 22.15.240. APPEAL. (a) Either party may appeal a judgment  
24 of the district court in a civil action to the court of appeals [SU-  
25 PERIOR COURT] when the sum in controversy is not less than \$50, or for  
26 the recovery of personal property of the value of not less than \$50  
27 exclusive of costs in either case, except when the sum is given by  
28 confession or for want of an answer.

29 (b) The defendant may appeal a judgment of conviction given in the

9  
1 district court in a criminal action to the court of appeals [SUPERIOR  
2 COURT]. When the judgment is given on a plea of guilty, no appeal may  
3 be taken by the defendant except on the ground that a sentence of im-  
4 prisonment of 45 [180] days or more was excessive; however, the supreme  
5 court by rule may further provide for review of a judgment given on a  
6 plea of guilty. The state has no right of appeal in criminal actions  
7 for which judgment is given in the district courts, except to test the  
8 sufficiency of the information.

9 (c) An appeal from the district court shall be taken within 30  
10 days from the date of entry of the judgment. All appeals shall be on  
11 the record [UNLESS THE SUPERIOR COURT, IN ITS DISCRETION, GRANTS A TRIAL  
12 DE NOVO, IN WHOLE OR IN PART].

13 (d) The supreme court shall prescribe further rules for the pro-  
14 cedure for appeals from district courts.

15 \* Sec. 10. AS 22.20.010 is amended to read:

16 Sec. 22.20.010. JUDICIAL OFFICER DEFINED. The term "judicial  
17 officer" means a supreme court justice, including the chief justice,  
18 a judge of the court of appeals, a judge of the superior court, a dis-  
19 trict judge and a magistrate.

20 \* Sec. 11. AS 22.20.110 is amended to read:

21 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF APPEALS,  
22 THE SUPERIOR COURT AND DISTRICT COURTS. When required by the supreme  
23 court, the commissioner shall serve and execute all process issued by  
24 the court of appeals, the superior court and the district courts, attend  
25 to and wait upon grand and petit juries, maintain order, attend the  
26 sessions of the courts, and exercise the power and perform the duties  
27 concerning all matters within the jurisdiction of the courts as may be  
28 assigned to him. The commissioner is the executive officer of the court  
29 of appeals, the superior court and district courts.

1 \* Sec. 12. AS 22.25.010(g) is amended to read:

2 (g) The word "justice" means a supreme court justice, and the word  
3 "judge," unless the context clearly indicates otherwise, means a judge  
4 of the court of appeals, a superior court judge or district court judge.

5 \* Sec. 13. AS 22.30.080(2) is amended to read:

6 (2) "judge" means a justice of the supreme court, a judge of  
7 the court of appeals, a judge of the superior court, or a judge of the  
8 district court who is the subject of an investigation or proceeding  
9 under sec. 10, art. IV, Constitution of the State of Alaska and this  
10 chapter.

11 \* Sec. 14. AS 11.56.900(2) is amended to read:

12 (2) "judicial officer" means a supreme court justice, in-  
13 cluding the chief justice, a judge of the court of appeals, a judge of  
14 the superior court, a district court judge, or a magistrate;

15 \* Sec. 15. AS 15.15.030(10) is repealed and re-enacted to read:

16 (10) A separate nonpartisan judicial ballot shall be desig-  
17 nated for each judicial district in which a justice or judge is seeking  
18 to succeed himself. The ballot shall be divided into four parts and  
19 each part shall bear a heading indicating the court to which the candi-  
20 date is seeking approval. Within each part the question of whether the  
21 justice or judge shall be approved or rejected shall be set out in  
22 substantially the following manner: (A) "Shall . . . . . be re-  
23 tained as justice of the supreme court for 10 years?"; (B) "Shall . . .  
24 . . . . be retained as judge of the court of appeals for eight years?";  
25 (C) "Shall . . . . . be retained as judge of the superior court for  
26 six years?"; or (D) "Shall . . . . . be retained as judge of the  
27 district court for four years?" Provision shall be made for marking  
28 each question "Yes" or "No".

29 \* Sec. 16. AS 15.35 is amended by adding new sections to read:

1           Sec. 15.35.140. APPROVAL OR REJECTION OF A JUDGE OF THE COURT OF  
2 APPEALS. Each judge of the court of appeals shall be subject to  
3 approval or rejection at the first general election held more than three  
4 years after his appointment. If approved, he shall thereafter be sub-  
5 ject to approval or rejection in a like manner every eighth year.

6           Sec. 15.35.150. FILING DECLARATION BY JUDGE OF THE COURT OF  
7 APPEALS. Each judge of the court of appeals seeking to succeed himself  
8 in office shall file with the lieutenant governor a declaration of  
9 candidacy not less than 90 days before the date of the general election  
10 at which approval or rejection is requisite.

11           Sec. 15.35.160. REQUIREMENT OF FILING FEE FOR COURT OF APPEALS.  
12 At the time the declaration is filed, each candidate shall pay a filing  
13 fee to the lieutenant governor. The filing fee for a candidate for the  
14 court of appeals is \$100.

15           Sec. 15.35.170. PLACING NAME OF JUDGE OF THE COURT OF APPEALS ON  
16 BALLOT. The lieutenant governor shall place the name of a judge of the  
17 court of appeals who has properly filed a declaration of candidacy on  
18 the judicial ballot in each judicial district of the state for the  
19 general election at which approval is sought.

20 \* Sec. 17. AS 15.57.025 is amended to read:

21           Sec. 15.57.025. INFORMATION AND RECOMMENDATIONS ON JUDICIAL  
22 OFFICERS. No later than 60 days before the applicable state election,  
23 the judicial council shall file with the lieutenant governor a statement  
24 including information about each supreme court justice, court of appeals  
25 judge, superior court judge, and district court judge who will be sub-  
26 ject to a retention election, following the evaluation of each such  
27 justice or judge conducted by the judicial council according to law.  
28 Each such statement may not exceed 300 words.

29 \* Sec. 18. AS 15.57.040(2) is amended to read:

1 (2) judicial officer other than supreme court justice or  
2 court of appeals judge, \$50 each.

3 \* Sec. 19. AS 24.55.330(2) is amended to read:

4 (2) "agency" includes a department, office, institution,  
5 corporation, authority, organization, commission, committee, council or  
6 board of a municipality or in the executive, legislative or judicial  
7 branches of the state government, and a department, office, institution,  
8 corporation, authority, organization, commission, committee, council or  
9 board of a municipality or of the state government independent of the  
10 executive, legislative and judicial branches; it also includes an  
11 officer, employee or member of an "agency" acting or purporting to act  
12 in the exercise of his official duties, but does not include the gover-  
13 nor, lieutenant governor, a member of the legislature, justice of the  
14 supreme court, judge of the court of appeals, a superior court judge,  
15 [OR] district court judge, magistrate, member of a city council or  
16 borough assembly, elected city or borough mayor, or a member of an  
17 elected school board;

18 \* Sec. 20. AS 39.20.310(1) is amended to read:

19 (1) members of the state legislature, the governor, the  
20 lieutenant governor, and justices and judges of the supreme and superior  
21 courts and of the court of appeals, but nothing in AS 39.20.220 -  
22 39.20.330 may be construed to diminish the salaries fixed by law for  
23 these officers by reason of absence from duty on account of illness or  
24 otherwise;

25 \* Sec. 21. AS 39.23.130(2) is amended to read:

26 (2) "judiciary" means justices of the supreme court and  
27 judges of the court of appeals, the superior court and the district  
28 court [THE SUPERIOR AND DISTRICT COURTS].

29 \* Sec. 22. AS 39.35.680(21)(C)(vi) is amended to read:

1 (vi) justices of the supreme court or judges of the  
2 court of appeals or of the superior or district courts of  
3 Alaska;

4 \* Sec. 23. AS 39.50.200(2) is amended to read:

5 (2) "judicial officer" means a person appointed as a justice  
6 to the supreme court or as a judge to the court of appeals, superior  
7 court, district court, or magistrate court.

8 \* Sec. 24. AS 12.55.120(a) is amended to read:

9 (a) A sentence of imprisonment lawfully imposed by the superior  
10 court for a term or for aggregate terms of 45 days or more [EXCEEDING  
11 ONE YEAR] may be appealed to the court of appeals [SUPREME COURT] by the  
12 defendant on the ground that the sentence is excessive. By appealing a  
13 sentence under this section, the defendant waives the right to plead  
14 that by a revision of the sentence resulting from the appeal he has been  
15 twice placed in jeopardy for the same offense.

16 \* Sec. 25. AS 12.55.120(b) is amended to read:

17 (b) A sentence of imprisonment lawfully imposed by the superior  
18 court may be appealed to the court of appeals [SUPREME COURT] by the  
19 state on the ground that the sentence is too lenient; however, when a  
20 sentence is appealed by the state and the defendant has not appealed the  
21 sentence, the court is not authorized to increase the sentence but may  
22 express its approval or disapproval of the sentence and its reasons in a  
23 written opinion.

24 \* Sec. 26. A judge of the court of appeals is entitled to receive annual  
25 compensation equal to 95 per cent of the annual compensation of a supreme  
26 court justice, payable in equal monthly installments, from the date upon  
27 which he takes office until superseded by payment of compensation resulting  
28 from the first salary recommendations made under AS 39.23 for judges of the  
29 court of appeals.

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1 \* Sec. 27. Notwithstanding the effective date of this Act, operations of  
2 the court of appeals shall commence on a date determined by the supreme court  
3 after all judges of the court of appeals have taken office.

4 \* Sec. 28. The superior court has concurrent appellate jurisdiction with  
5 the court of appeals in actions and proceedings commenced in the district  
6 court and filed in the superior court before the date on which operations of  
7 the court of appeals commence. The supreme court may transfer to the court  
8 of appeals an appellate matter involving an action or proceeding commenced in  
9 the district court which is pending in the superior court on the date on  
10 which operations of the court of appeals commence, including a matter filed  
11 before the effective date of this Act. An appellate matter not so trans-  
12 ferred shall be decided by the superior court. Before commencement of opera-  
13 tions in the court of appeals, a decision of the superior court under this  
14 section may be appealed to the supreme court and thereafter to the court of  
15 appeals.

16 \* Sec. 29. The supreme court may transfer to the court of appeals any  
17 matter within the jurisdiction of the court of appeals which is pending in  
18 the supreme court on the date on which operations of the court of appeals  
19 commence, including matters filed in the supreme court before the effective  
20 date of this Act.

21 \* Sec. 30. It is the intent of the legislature that the court of appeals  
22 commence operations as soon as possible after the effective date of this Act.  
23 The administrative director of courts shall immediately take necessary action  
24 to provide suitable facilities for the court of appeals. When advised by the  
25 supreme court, the judicial council shall meet and submit nominations to the  
26 governor for all initial vacancies for judge of the court of appeals.

27 \* Sec. 31. Section 14 of this Act takes effect January 1, 1980. The  
28 remainder of this Act takes effect July 1, 1979.

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state last year  
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because  
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Introduced: 3/14/79  
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,  
DUNCAN, HAYES, MEEKINS, MILLER,  
PARR, ROGERS, SCHAEFFER AND  
GARDINER

THE HOUSE

HOUSE BILL NO. 392

IN THE LEGISLATURE OF THE STATE OF ALASKA  
ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to domestic violence; and amending  
Rules 3, 65, and 76, Rules of Civil Procedure."

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

\* Section 1. AS 09.55 is amended by adding new sections to read:

ARTICLE 9. DOMESTIC VIOLENCE.

too subjective

Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
has reason to believe that an adult or an emancipated minor is a victim  
of domestic violence, the officer shall use all reasonable means to  
prevent further domestic violence and to assure the safety of the  
victim, including

(1) remaining on the scene of the domestic violence as long  
as there would be a danger to the physical safety of the victim without  
the presence of the peace officer;

(2) assisting the victim in obtaining emergency medical  
treatment if necessitated by an assault, including transportation to the  
emergency room of the nearest hospital or to the nearest health  
provider;

(3) assisting the victim in removing to a safe place nearby,  
or to the nearest facility offering shelter to victims of domestic  
violence;

(4) giving the victim immediate notice of rights provided  
under this section and of the existence of the nearest facility offering  
shelter to victims of domestic violence; DV

(5) arresting the assailant

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1 (A) if the peace officer has reasonable cause to believe  
2 that the assailant has committed domestic violence which is a  
3 felony,

4 (B) if domestic violence which is a misdemeanor is  
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall read and give  
9 to the victim:

10 "As a victim of domestic violence you have the right  
11 under law to demand that the officer present do the following  
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;  
14 (2) take you to the nearest hospital or health provider  
15 if you need medical care;  
16 (3) take you to a place nearby where you will be safe if  
17 you want to leave here; (and)  
18 (4) tell you how to contact the nearest organization that  
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to  
21 do any or all of the following things:

- 22 (1) order your attacker to stop hurting or threatening  
23 you or your children;  
24 (2) order your attacker to get out of the house;  
25 (3) order your attacker not to communicate with you  
26 in any way;  
27 (4) give you temporary custody of your children;  
28 (5) order your attacker to pay for your costs which  
29 result from the attack, including medical and moving costs,

1 loss of earnings or support, or other costs for injuries you  
2 or your children received.

3 If your attacker does not obey a court order to get out  
4 of the house or to leave you alone, your attacker can be  
5 arrested immediately. To get a court order contact the  
6 superior court in (name of place) and they will help you.  
7 You must do this within 10 days. To get an order quickly  
8 in an emergency, you may also contact the district court  
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you. You also  
11 have the right to file a criminal complaint against your  
12 attacker."

13 (c) If the victim does not understand English, the officer shall  
14 make reasonable efforts to explain the rights provided in this section  
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
17 violence who is an adult or an emancipated minor may, within 10 days of  
18 the act of domestic violence, petition a superior court or, if the  
19 circumstances described in (c) of this section exist, petition a dis-  
20 trict judge or magistrate under (c) of this section for an order

21 (1) restraining the assailant from subjecting the petitioner  
22 to domestic violence;

23 (2) directing the assailant to vacate the home of the peti-  
24 tioner;

25 (3) restraining the assailant from contacting the petitioner;

26 (4) directing the assailant to pay support for the petitioner  
27 or for the minor children in the care of the petitioner if there is an  
28 independent legal obligation of the assailant to support the petitioner  
29 or the children;

*temporarily*  
*e.g. natural father*

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds that the petitioner has been  
12 subjected to domestic violence by the respondent, the superior court may  
13 issue any of the orders for relief described in (a) of this section or  
14 any other order the superior court determines to be necessary for the  
15 protection of the health, safety and welfare of the petitioner or of a  
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue  
18 a temporary order without following the notice and hearing requirements  
19 of (b) of this section if (1) the petitioner demonstrates a substantial  
20 likelihood of immediate danger from the respondent to the health, safety  
21 or welfare of the petitioner or of a minor child in the care of the  
22 petitioner; and (2) the court or district judge or magistrate determines  
23 that the order is necessary to protect the petitioner or a minor child  
24 in the care of the petitioner. Immediately after issuing a temporary  
25 order under this subsection or upon receiving notice of an order issued  
26 by a district judge or magistrate under this subsection, the superior  
27 court shall notify the respondent and give the respondent an opportunity  
28 to be heard as soon as possible, but in no event later than 10 days,  
29 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be  
3 for a fixed period of time not to exceed 45 days; however, upon motion  
4 by the petitioner and after hearing, the superior court may issue an  
5 order for an additional period of time as it considers necessary to  
6 protect the petitioner from domestic violence. The superior court may  
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other  
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
11 system, in cooperation with interested persons and organizations, shall  
12 prepare forms and instructions for the use of persons seeking an order  
13 for relief under AS 09.55.660, including forms for waiving filing fees  
14 on the basis of indigency. The forms shall conform to the requirements  
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
16 information on the forms may be filled in by legible handwriting. The  
17 office of the clerk of each superior court shall make the forms and  
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
20 superior court, district judge or magistrate issues an order described  
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or  
22 magistrate shall transmit a copy of the order to the appropriate local  
23 law enforcement agency. Law enforcement agencies shall establish pro-  
24 cedures adequate to inform their peace officers of the existence and  
25 terms of orders transmitted to the law enforcement agencies under this  
26 section. Peace officers shall use every reasonable means to enforce the  
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-  
2 cers, which acquaint peace officers with the rights of the victim of  
3 domestic violence, the types of orders which may be issued under AS 09.-  
4 55.660, and techniques for handling incidents of domestic violence which  
5 promote the safety of the victim and reduce the likelihood of recur-  
6 rence.

7 Sec. 09.55.690. CRIMINAL PENALTIES. (a) <sup>Knowing</sup> Violation of an order  
8 described in AS 09.55.660(a)(1), (2) or (3) is a misdemeanor punishable  
9 by imprisonment for up to 60 days, or by a fine of up to \$500, or by  
10 both. A second violation of an order described in AS 09.55.660(a)(1),  
11 (2) or (3) is punishable by no less than three days imprisonment.

12 (b) A peace officer shall arrest and detain a person found by the  
13 peace officer to be in violation of an order described in AS 09.55.660  
14 (a)(1), (2) or (3) if the order is in full force and effect.

15 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
16 09.55.700,

17 (1) "domestic violence" means the intentional perpetration of  
18 any of the following acts by a person against a household member, a  
19 spouse, former spouse, or blood relative of the person:

20 (A) attempting to cause or causing physical harm to the  
21 other person or to a minor child in the care of the other person;

22 (B) placing the other person or a minor child in the  
23 care of the other person in fear of imminent serious physical harm;

24 (C) causing the other person to engage involuntarily in  
25 sexual relations by force, threat of force or duress;

26 (2) "Facility offering shelter to victims of domestic vio-  
27 lence" includes facilities offering programs which provide emergency or  
28 short-term lodging or housing for adults who are victims of domestic  
29 violence and their children.

ASKA

1 \* Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If, after an additional 30 days a  
10 unit remains unassigned, the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS] have first  
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion.

18 (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 \* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24 (9) to issue a temporary order in domestic violence cases as  
25 provided in AS 09.55.660(c); the district judge or magistrate shall  
26 notify the superior court immediately upon issuance of the temporary  
27 order.

28 \* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska  
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
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4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure  
5 for obtaining orders for relief from domestic violence.

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# Domestic violence bill passes state House

The Associated Press

JUNEAU — A wide-ranging bill dealing with domestic violence is on its way to the Senate after receiving unanimous House approval.

The bill, HB392, was introduced by the House Judiciary Committee after a series of hearings around the state during the summer, according to Rep. Charlie Parr, D-Fairbanks, the committee chairman.

"There's no question as to the size of the problem," Parr said before the House voted on Wednesday. He said four other states have passed similar legislation and that while he did not know if it is the answer to wife-beating and other violence in the home, he thought Alaska should give it a try.

The measure outlines steps police must take if called to a home because of domestic violence, provides for a Miranda-like list of rights that victims have and that police must advise them of, and includes sexual activity without consent as domestic violence under the law.

In addition, the measure requires public housing authorities to give preference to domestic violence victims who otherwise meet criteria for occupying dwellings. Veterans have a first preference, however, under existing law.

The bill would require a police officer to remain at the scene of domestic violence as long as he believes the victim is in physical danger. A police officer would also be required

to take the victim to a doctor or hospital for medical treatment if needed, and to a shelter or other safety.

Those provisions are among the list of rights which the officer must provide the victim. In addition, the officer may arrest the offender without a warrant.

The bill also provides for a court to order the attacker to leave the home or otherwise restrain the perpetrator from attacks.

"Domestic violence" under the bill includes the attempt or actual action to cause physical harm, placing the victim in fear of imminent physical harm, and causing the victim to engage without consent in sexual relations.

*Arch News*

*2/21/80*



# Taking care of domestic violence

by Phyllis Schlafly

**THE DOMESTIC VIOLENCE** and Prevention Services Act (H.R. 2977) passed the House with very little opposition in December, but is producing accelerating controversy in the Senate where the Child and Human Development subcommittee has scheduled hearings in March.

A coalition of church groups charges that the bill will enable the federal Health and Welfare Department (HW) eventually to intervene directly in family disputes.

One would think that the federal bureaucrats would be involved in enough disputes, both foreign and domestic, that they would be loath to get in the middle of fights between husbands and wives. But the natural growth impetus of the federal bureaucracy is always to look for more problems to solve, so that more tax funds can be appropriated, more federal employees hired and more control exerted over our lives.

The bill would authorize \$65 million for shelters for abused spouses and set up a national clearinghouse on domestic violence to make recommendations to Congress on matters which may affect victims of domestic violence. It can be reliably predicted that the first batch of recommendations will be to appropriate more tax funds for the newly hired bureaucrats trying to cope with the problems.

The bill would authorize the HW secretary to appoint a coordinator of the program who would operate the national clearinghouse on domestic violence, develop a national media campaign to advertise federal services, and make more recommendations to Congress. The HW secretary will award state grants of up to \$150,000 each to support, establish and expand state programs under federal guidelines.

**THE DEFINITION** of "domestic violence" in the bill is "any act of threatened act of violence, including any forceful detention of an individual which results or threatens to result in physical injury, and is committed by a person 18 years or older against another such person to whom such person is or was related,

or by a person of any age against another person with whom such person is residing in a relationship of husband and wife."

More than half the states have civil and criminal laws addressing the particular issue of domestic violence, and about half the states already have in operation some sort of shelters or services for domestic violence victims.

There is no evidence for the proposition that the federal bureaucracy is better able to cope with the problem of husbands beating wives than local law enforcement and local public and private charitable institutions. There is nothing in the bill to support the hope that it can shield even one wife from a violent husband.

Under questioning, many of the experts in domestic violence concede that the principal problem in domestic violence is alcohol, with other drugs close behind. They also concede that most wives who are beaten by their husbands return to them after R and R at a shelter, and that a large percentage of wives return repeatedly.

**A CONSULTATION** sponsored by the U.S. Commission on Civil Rights, called "Battered Women: Issues of Public Policy," however, came up with a "cause" which sounds more like a product of ideology than of investigation: "the institution of marriage itself and the way in which women and men are socialized to act out dominant-submissive roles that in and of themselves invite abuse."

The domestic violence bill is more than just another request to spend more of our tax dollars which should be defeated because it is unnecessary, untimely, impractical, inflationary, and beyond the competence of the federal government. It is yet another bill which sharpens the focus between those who believe in the continued vitality of the traditional family and those who believe its stereotypes are obsolete and should be restructured by an all-wise and all-powerful federal government.

Arch Times 8/24/80

# House bill tackles domestic violence

By JUDISENIURA  
News-Miner Correspondent

Alaska's high incidence of rape and violence against Native women is a major concern of the Alaska Commission on the Status of Women, Barbara Schuhmann, Fairbanks representative on the commission, said at a recent meeting of business women.

According to a recent commission subcommittee report, Alaska has the fourth highest rape rate in the country, and there is overwhelming evidence of violence in the home.

As a result, Schuhmann urged support of a bill introduced in the state House.

Schuhmann recently spoke to a group of about 35 women attending a political action conference sponsored by the Alaska Federation of Business and Professional Women's Clubs, District 3.

Schuhmann said she backs H.B. 392 which provides for additional training for police officers in domestic violence situations, a more accessible restraining order and housing for domestic violence victims.

Violence against women is particularly hard to handle in Bush communities where there is little police protection and because of the isolation, she said.

CETA workers now act as constables in these communities but as temporary peace officers who are usually related to many villagers, they are often reluctant to make arrests.

Under the proposed bill, officers would advise the victim of his or her rights, stay with them as long as

necessary and make an arrest under probable cause of a misdemeanor. At present, arrests can only be made if the crime is witnessed by the officer.

Another proposal of the bill is to create restraining orders which can be filled out by the victim and executed by a judge, magistrate or constable, and to make violation of such an order a misdemeanor.

Schuhmann said it is now difficult to obtaining a restraining order because the victim must come to Fairbanks and then hire an attorney to execute the legal action. A violation of the order often brings no more than a contempt of court charge, Schuhmann said.

Violence in the home often leads to or includes child abuse. Current studies suggest that an abused child will often become an abusing parent, Schuhmann said. The commission hopes that by correcting the violence problem, child abuse will be alleviated.

Schuhmann also urged conferees to pay attention to other current women's issues such as:

- The displaced homemaker bill, which would provide funding at a local level for existing organizations to aid the displaced homemaker.
- Equal training at schools and vocational centers for men and women to create equal employment opportunity for gas pipeline construction.
- Provisions to ensure that women are given their fair share of the state natural resources wealth.
- Prohibiting official travel of state officials to states that have not ratified the Equal Rights Amendment.

HB 392 Feb, 1980

# Wife beaters face jail under bill

News-Miner Bureau

JUNEAU—Husbands who beat their wives may face stiff new penalties, including mandatory time in jail for a second violation, if a proposed bill passes the Legislature.

The bill cleared its first hurdle Wednesday night when the House Judiciary Committee passed its own substitute for House Bill 392.

This legislation would strengthen and broaden both the authority peace officers have in handling incidents of domestic violence and in assuring protection to victims.

Alaska's new criminal code took effect at the beginning of the year, and under that code, officers for the first time were given authority to arrest assailants upon reasonable belief that assault in the third degree had been committed.

Previously, officers could make such an arrest only if they actually witnessed the assault. But HB 392, as the committee has amended it, would broaden the authority even more.

The bill would allow officers to arrest assailants for violating court orders restraining their contact with the victim.

It also would mandate that a second offender spend no less than 72 consecutive hours in jail, with no provision for probation, parole or suspension of sentence.

Other highlights of the bill are:

- The victim may request an officer to remain on the scene if he or she feels in danger.

- Officers may take the victim to the nearest emergency room or health care facility, if necessary, and help the victim move to a shelter or place of safety.

- Victims, both adults and emancipated minors, will be able to go to court to get a temporary restraining order against an assailant, with the court providing understandable forms and instructions for the victim to complete.

- Assailants can be ordered by the court to refrain from all contact with the victim, and to pay medical and moving expenses and child support.

But the committee changed all wording from a mandatory "shall" arrest to "may" arrest, after a State Trooper official had testified earlier over concern that the mandatory arrest could leave officers liable for false arrest.

The House Judiciary Committee is chaired by Charlie Parr, D-Fairbanks, and Fred Brown, D-Fairbanks, is among the committee members.

HR 392  
1/16/80

Dean Guinelli, Dept of Law -

- ① Favors arrest under new crim code
- ② Judge usually impose condition of no contact with victim before releasing on OR or bail
- ③ Crim penalty for violating restraining order but person may not know of order
- ④ AUSA priorities set by Feds - need to act carefully - frequent reconciliation which may cause move out in few days

LT Col Beaton - Pub Safety

- ① Pub Safety does not wholly support
- ② Civil liability if officer leaves and violence then occurs
- ③ Difficulty reading rights + Miranda + Violent Comp Cards, Rape Awareness <sup>also has</sup>
- ④ Wives don't show up to sign complaints or refuse to testify
- ⑤ NY - Crisis Intervention Center - counseling
- ⑥ Need phone central (Crisis Line type) from which victim can get info on options

Vivian Diven - 1/17/80  
battered women

- ① Ak Leg fees - 30-day waiting period
- ② No money to get place - AFDC only - many won't take children
- ③ Troopers - dispatcher refused to give alternatives - press charges or forget it
- ④ Social problem - not criminal problem
- ⑤ Officer should give alternatives - w/ counseling
- ⑥ wants: no contact, family support, mandatory counseling for husband
- ⑦ Crisis Intervention program needed

Peggy -  
TRD applies  
from date of  
notification

X

X

Introduced: 3/14/79  
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,  
DUNCAN, HAYES, MEEKINS, MILLER,  
PARR, ROGERS, SCHAEFFER AND  
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending  
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE *AS 9-55-590*

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
12 has reason to believe that an adult or an *or unemancipated* emancipated minor is a victim  
13 of domestic violence, the officer shall use all reasonable means to  
14 prevent further domestic violence and to assure the safety of the  
15 victim, including

16 (1) remaining on the scene of the domestic violence as long  
17 as there would be a danger to the physical safety of the victim without  
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical  
20 treatment if necessitated by an assault, including transportation to the  
21 emergency room of the nearest hospital or to the nearest health  
22 provider;

23 (3) assisting the victim in removing to a safe place nearby,  
24 or to the nearest facility offering shelter to victims of domestic  
25 violence;

26 (4) giving the victim immediate notice of rights provided  
27 under this section and of the existence of the nearest facility offering  
28 shelter to victims of domestic violence;

29 (5) arresting the assailant

*To be consistent throughout bill delete  
"emancipated"*

1 (A) if the peace officer has reasonable cause to believe  
2 that the assailant has committed domestic violence which is a  
3 felony,

4 (B) if domestic violence which is a misdemeanor is  
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall read and give  
9 to the victim:

10 "As a victim of domestic violence you have the right  
11 under law to ~~demand~~ <sup>request</sup> that the officer present do the following  
12 things:

- 13 (1) stay as long as needed to make sure that you are safe; *→ unreasonable police has to have a psychologist*  
14 (2) take you to the nearest hospital or health provider

15 if you need medical care;

16 *7 for right* (3) <sup>to demand</sup> take you to a place nearby where you will be safe if  
17 you want to leave here; and

18 (4) tell you how to contact the nearest organization that  
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to  
21 do any or all of the following things:

22 (1)  order your attacker to stop hurting or threatening  
23 you or your children;

24 (2) order your attacker to get out of the house;

25 *freedom of speech* (3) order your attacker not to communicate with you  
26 in any way; *what about a try at marriage counseling.*

27 (4)  give you temporary custody of your children;

28 (5) order your attacker to pay for your costs which  
29 result from the attack, including medical and moving costs,

*Peterson - 2,000 sales - what time period*  
*Karen Robinson -*  
*Barbara Bonnie - drugs & alcohol & domestic violence*  
*- new trend on periodicals, books, movies*  
*rape training - what about prevention?*

1 loss of earnings or support, or other costs for injuries you  
 2 or your children received.

3 If your attacker does not obey a court order to get out  
 4 of the house or to leave you alone, your attacker can be  
 5 arrested immediately. To get a court order contact the  
 6 superior court in (name of place) and they will help you. *ask for*  
 7 You must do this within 10 days. To get an order quickly *Help*  
 8 in an emergency, you may also contact the district court *711*  
 9 in (name of place) or (name of magistrate). *on your children*

10 The court order is designed to protect you. You also  
 11 have the right to file a criminal complaint against your  
 12 attacker."

13 (c) If the victim does not understand English, the officer shall  
 14 make reasonable efforts to explain the rights provided in this section  
 15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
 17 violence who is an adult or an emancipated minor may, within 10 days of  
 18 the act of domestic violence, petition a superior court or, if the  
 19 circumstances described in (c) of this section exist, petition a dis-  
 20 trict judge or magistrate under (c) of this section for an order  
*Will there be special procedures with the courts? this can be implemented or we need more judges does our 24 hr system handle this?*

- 21 (1) restraining the assailant from subjecting the petitioner
- 22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-
- 24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner
- 27 or for the minor children in the care of the petitioner if there is an
- 28 independent legal obligation of the assailant to support the petitioner
- 29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

*is not the intent here an unemancipated child.*

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds that the petitioner has been  
12 subjected to domestic violence by the respondent, the superior court may  
13 issue any of the orders for relief described in (a) of this section or  
14 any other order the superior court determines to be necessary for the  
15 protection of the health, safety and welfare of the petitioner or of a  
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue  
18 a temporary order without following the notice and hearing requirements  
19 of (b) of this section if (1) the petitioner demonstrates a substantial  
20 likelihood of immediate danger from the respondent to the health, safety  
21 or welfare of the petitioner or of a minor child in the care of the  
22 petitioner; and (2) the court or district judge or magistrate determines  
23 that the order is necessary to protect the petitioner or a minor child  
24 in the care of the petitioner. Immediately after issuing a temporary  
25 order under this subsection or upon receiving notice of an order issued  
26 by a district judge or magistrate under this subsection, the superior  
27 court shall notify the respondent and give the respondent an opportunity  
28 to be heard as soon as possible, but in no event later than 10 days,  
29 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be  
3 for a fixed period of time not to exceed 45 days; however, upon motion  
4 by the petitioner and after hearing, the superior court may issue an  
5 order for an additional period of time as it considers necessary to  
6 protect the petitioner from domestic violence. The superior court may  
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other  
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
11 system, in cooperation with interested persons and organizations, shall  
12 prepare forms and instructions for the use of persons seeking an order  
13 for relief under AS 09.55.660, including forms for waiving filing fees  
14 on the basis of indigency. The forms shall conform to the requirements  
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
16 information on the forms may be filled in by legible handwriting. The  
17 office of the clerk of each superior court shall make the forms and  
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
20 superior court, district judge or magistrate issues an order described  
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or  
22 magistrate shall transmit a copy of the order to the appropriate local  
23 law enforcement agency. Law enforcement agencies shall establish pro-  
24 cedures adequate to inform their peace officers of the existence and  
25 terms of orders transmitted to the law enforcement agencies under this  
26 section. Peace officers shall use every reasonable means to enforce the  
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-  
2 cers, which acquaint peace officers with the rights of the victim of  
3 domestic violence, the types of orders which may be issued under AS 09.-  
4 55.660, and techniques for handling incidents of domestic violence which  
5 promote the safety of the victim and reduce the likelihood of recur-  
6 rence.

7 Sec. 09.55.690. CRIMINAL PENALTIES. (a) <sup>an intentional</sup> Violation of an order  
8 described in AS 09.55.660(a)(1), (2) or (3) is a <sup>class B</sup> misdemeanor punishable  
9 by imprisonment for up to <sup>90</sup> 60 days, or by a fine of up to \$500, or by  
10 both. <sup>See new addition to this that does not allow suspending 3 day instead.</sup> A second violation of an order described in AS 09.55.660(a)(1),  
11 (2) or (3) is punishable by no less than three days imprisonment.

12 (b) A peace officer shall, <sup>consistent with AS 12.05.030 (d) 1, + (c),</sup> arrest and detain a person found by the  
13 peace officer to be in violation of an order described in AS 09.55.660-  
14 (a)(1), (2) or (3) if the order is in full force and effect.

15 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
16 09.55.700, <sup>cover so habitation - prostitutes could misuse this,</sup>

17 (1) "domestic violence" means the intentional perpetration of  
18 any of the following acts by a person against a household member, a  
19 spouse, former spouse, or blood relative of the person:

20 (A) attempting to cause or causing physical harm to the  
21 other person or to a minor child in the care of the other person;

22 (B) placing the other person or a minor child in the  
23 care of the other person in fear of imminent serious physical harm;

24 (C) causing the other person to engage involuntarily in  
25 sexual relations by force, threat of force or duress;

26 (2) "facility offering shelter to victims of domestic vio-  
27 lence" includes facilities offering programs which provide emergency or  
28 short-term lodging or housing for adults who are victims of domestic  
29 violence and their children.

1 \* Sec. 2. AS 18.55.330 is amended to read:

2       Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If, after an additional 30 days a  
10 unit remains unassigned, the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS] have first  
13 preference and other residents have second preference.

14       (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion. *Villages are small areas - is most of the law*

18       (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 \* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24       (9) to issue a temporary order in domestic violence cases as  
25 provided in AS 09.55.660(c); the district judge or magistrate shall  
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27 order.

28 \* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska  
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
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*Final CS sent to Leg. Affairs*

*1-31-80*

*C.S FOR*

HOUSE BILL NO. 392

BY ~~MILONE, ANDERSON, COTTEN, DUNCAN, HAYES, MEEKINS, MILLER, PARR, ROGERS, SCHAEFFER AND GARDINER~~

*MWS*

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to domestic violence; and amending Rules 3, 65, and 76, Rules of Civil Procedure."

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

\* Section 1. AS 09.55 is amended by adding new sections to read:

ARTICLE 9. DOMESTIC VIOLENCE.

Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim of domestic violence, the officer shall use all reasonable means to prevent further domestic violence and to assure the safety of the victim, including

(1) remaining on the scene of the domestic violence as long *the officer believes that* as there would be a danger to the physical safety of the victim without the presence of the peace officer;

(2) assisting the victim in obtaining emergency medical treatment, ~~if necessitated by an assault~~ including transportation to the emergency room of the nearest hospital or to the nearest health provider, *if the peace officer believes it is necessary;*

(3) assisting the victim in removing to a safe place nearby, or to the nearest facility offering shelter to victims of domestic violence;

(4) giving the victim immediate notice of rights provided under this section and of the existence of the nearest facility offering shelter to victims of domestic violence;

(5) arresting the assailant *As provided in AS 12.25.030.*

1                   ~~(A) if the peace officer has reasonable cause to believe~~  
2 ~~that the assailant has committed domestic violence which is a~~  
3 ~~felony,~~

4                   ~~(B) if domestic violence which is a misdemeanor is~~  
5 ~~committed in his presence, or~~

6                   ~~(C) under the circumstances set out in AS 12.25.030(b).~~

7                   (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall ~~read and~~ give  
9 to the victim/ *AND will read to the victim if circumstances allow:*

10                   "As a victim of domestic violence you ~~have the right~~  
11 *MAY REQUEST*  
~~under law to demand~~ that the officer present do the following  
12 things:

- 13                   (1) stay as long as needed to make sure that you are safe;  
14                   (2) take you to the nearest hospital or health provider  
15 if you need medical care~~X~~.

16                   As a victim of domestic violence you HAVE the  
17 right to demand that the officer present do the  
18 following things:

- 19                   (1) ~~(5)~~ take you to a place nearby where you will be safe if  
20 you want to leave here; and  
21                   (2) ~~(4)~~ tell you how to contact the nearest organization that  
22 offers aid or shelter to victims of domestic violence.

23                   You HAVE the right to ASK the COURT to ISSUE AN  
24 order protecting you AND your children from domestic  
25 violence AND providing other necessary assistance,  
26 which MAY include ordering the Attacker out of  
27 ~~your~~ home and giving you temporary custody of  
28 ~~your~~ children.

1 ~~loss of earnings or support or other costs for injuries you~~  
2 ~~or your children received.~~

3 If ~~your~~ <sup>the</sup> attacker does not obey a court order to get out  
4 of the house or to leave you alone, ~~your~~ <sup>the</sup> attacker can be  
5 arrested immediately. To get a court order contact the  
6 superior court in (name of place) and they will help you.  
7 You must do this within 10 days. To get an order quickly  
8 in an emergency, you may also contact the district court  
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you <sup>the</sup> or ~~your~~ <sup>the</sup> children.  
11 have the right to file a criminal complaint against ~~your~~ <sup>the</sup>  
12 attacker."

13 (c) If the victim does not understand English, the officer shall  
14 make reasonable efforts to explain the rights provided in this section  
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
17 violence who is an adult or an emancipated minor may, within 10 days of  
18 the act of domestic violence, petition a superior court or, if the  
19 circumstances described in (c) of this section exist, petition a dis-  
20 trict judge or magistrate under (c) of this section for an order

21 (1) restraining the assailant from subjecting the petitioner  
22 to domestic violence;

23 (2) directing the assailant to vacate the home of the peti-  
24 tioner;

25 (3) restraining the assailant from contacting the petitioner;

26 (4) directing the assailant to pay support for the petitioner  
27 or for the minor children in the care of the petitioner if there is an  
28 independent legal obligation of the assailant to support the petitioner  
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds ~~that the petitioner has been~~  
12 ~~subjected to domestic violence by the respondent,~~ *the Allegations of*  
13 *the petitioner to be true,* the superior court may  
14 issue any of the orders for relief described in (a) of this section or  
15 any other order the superior court determines to be necessary for the  
16 protection of the health, safety and welfare of the petitioner or of a  
17 minor child in the care of the petitioner.

18 (c) The superior court or a district judge or magistrate may issue  
19 a temporary order without following the notice and hearing requirements  
20 of (b) of this section if (1) the petitioner demonstrates a substantial  
21 likelihood of immediate danger from the respondent to the health, safety  
22 or welfare of the petitioner or of a minor child in the care of the  
23 petitioner; and (2) the court or district judge or magistrate determines  
24 that the order is necessary to protect the petitioner or a minor child  
25 in the care of the petitioner. Immediately after issuing a temporary  
26 order under this subsection or upon receiving notice of an order issued  
27 by a district judge or magistrate under this subsection, the superior  
28 court shall notify the respondent and give the respondent an opportunity  
29 to be heard as soon as possible, but in no event later than 10 days,  
30 after the order is issued on the question of continuing the temporary

order.

(d) Relief granted by a superior court under this section shall be for a fixed period of time not to exceed 45 days; however, upon motion by the petitioner and after hearing, the superior court may issue an order for an additional period of time as it considers necessary to protect the petitioner from domestic violence. The superior court may modify its order at any time upon petition of either party.

(e) Proceedings under this section do not preclude any other available civil or criminal remedies.

Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court system, in cooperation with interested persons and organizations, shall prepare forms and instructions for the use of persons seeking an order for relief under AS 09.55.660, including forms for waiving filing fees on the basis of indigency. The forms shall conform to the requirements of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that information on the forms may be filled in by legible handwriting. The office of the clerk of each superior court shall make the forms and instructions available to the public.

Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a superior court, district judge or magistrate issues an order described in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or magistrate shall transmit a copy of the order to the appropriate local law enforcement agency. Law enforcement agencies shall establish procedures adequate to inform their peace officers of the existence and terms of orders transmitted to the law enforcement agencies under this section. Peace officers shall use every reasonable means to enforce the orders.

Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-  
2 cers, which acquaint peace officers with the rights of the victim of  
3 domestic violence, the types of orders which may be issued under AS 09.-  
4 55.660, and techniques for handling incidents of domestic violence which  
5 promote the safety of the victim and reduce the likelihood of recur-  
6 rence.

7 *(an intentional violation of an order described*  
8 *in AS 09.55.660(a)(3) involving the ~~etc~~ initiation of personal*  
9 *contact*  
10 *Sec. 09.55.690. CRIMINAL PENALTIES. (a) An intentional violation of an order*  
11 *described in AS 09.55.660(a)(1), <sup>or</sup> (2), or ~~(3)~~ is a CLASS B misdemeanor.*  
~~by imprisonment for up to 60 days, or by a fine of up to \$500, or by~~  
~~both. A second violation of an order described in AS 09.55.660(a)(1),~~  
~~(2) or (3) is punishable by ~~no less than three days imprisonment.~~~~

12 a minimum sentence of imprisonment not less than 3 consecutive  
13 days (72 consecutive hours). The execution  
14 of a sentence may not be suspended nor may probation or parole  
15 be granted until the minimum imprisonment provided in this  
16 section has been served, nor may imposition of sentence be  
17 suspended, except upon condition that the defendant be  
18 imprisoned for no less than the minimum period provided in  
19 this section.

20 *consistent with the provisions of AS 12.25.030,*  
21 *MAY A*  
22 *(b) A peace officer shall arrest and detain a person <sup>when he has</sup> found by the*  
23 *reasonable cause for believing that the person has committed an act,*  
24 *peace officer to be in violation of an order described in AS 09.55.660-*  
25 *690*  
26 (a)(1), (2) or (3) if the order is in full force and effect.

27 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
28 09.55.700,

29 (1) "domestic violence" means the intentional perpetration of  
30 any of the following acts by a person against a household member, a  
31 spouse, former spouse, or blood relative of the person:

32 (A) attempting to cause or causing physical harm to the  
33 other person or to a minor child in the care of the other person;

34 (B) placing the other person or a minor child in the  
35 care of the other person in fear of imminent serious physical harm;

36 (C) causing the other person to engage involuntarily in  
37 sexual relations by force, threat of force or duress;

38 (2) "facility offering shelter to victims of domestic vio-  
39 lence" includes facilities offering programs which provide emergency or  
40 short-term lodging or housing for adults who are victims of domestic  
41 violence and their children.

1 \* Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If ~~after an additional 30 days~~  
10 <sup>After the 30 day period,</sup> a unit remains unassigned<sup>x</sup> the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS]<sup>shall</sup> have first  
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence<sup>shall</sup> have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion.

18 (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

(d) The preferences in this section for veterans and victims  
of domestic violence are applicable to state housing projects.  
These preferences are also applicable to housing projects  
receiving financial aid, assistance, or cooperation from the  
federal government unless the Department of Housing and Urban  
Development prohibits or disapproves these preferences.

\* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

(9) to issue a temporary order in domestic violence cases as provided in AS 09.55.660(c); the district judge or magistrate shall notify the superior court immediately upon issuance of the temporary order.

\* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
2 cedure, by allowing the courts to accept for filing petitions which are hand-  
3 written in part. Section 1 of this Act also has the effect of amending Rule  
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure  
5 for obtaining orders for relief from domestic violence.

6  
7  
8 \* Sec. 5. AS 12,25.030 (b) is amended to read:

9 (b) In addition to the authority granted under (a)  
10 of this section, a peace officer without a warrant  
11 (MAY ARREST A PERSON WHEN HE HAS REASONABLE CAUSE FOR  
12 BELIEVING THAT THE PERSON HAS COMMITTED ASSAULT IN THE  
13 THIRD DEGREE UNDER AS 11.41.230(a)(1) AGAINST A MEMBER OF  
14 THE PERSON'S HOUSEHOLD) :

15 (1) may arrest a person when he has reasonable cause for  
16 believing that the person has committed assault in the  
17 third degree under AS 11.41.320(a)(1) against a member of the  
18 person's household;

19 (2) <sup>MAY</sup> shall arrest a person when he has reasonable cause  
20 for believing that the person has committed an ~~act in violation~~  
21 ~~of an order described in AS 09.55.650-(a)(1), (2), or (3) if~~  
22 ~~the order is in full force and effect.~~

23 (3) As used in this section "household" means the social  
24 unit comprised or those living together in the same dwelling.

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*offense defined in AS 09.55.690(a).*

Original sponsors: Malone, Anderson,  
Cotten, et al

Offered: 2/13/80  
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence, and changing  
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
12 has a reasonable belief that an adult or an emancipated minor is a  
13 victim of domestic violence, the officer shall use all reasonable means  
14 to prevent further domestic violence and to assure the safety of the  
15 victim, including

16 (1) remaining on the scene of the domestic violence as long  
17 as the officer believes that there would be a danger to the physical  
18 safety of the victim without the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical  
20 treatment, including transportation to the emergency room of the nearest  
21 hospital or to the nearest health provider, if the peace officer be-  
22 lieves that emergency medical treatment is necessary;

23 (3) assisting the victim in moving to a safe place nearby, or  
24 to the nearest facility offering shelter to victims of domestic vio-  
25 lence;

26 (4) giving the victim immediate notice of rights provided  
27 under this section and of the existence of the nearest facility offering  
28 shelter to victims of domestic violence;

29 (5) arresting the assailant as provided in AS 12.25.030.

1 (b) The notice required in (a)(4) of this section includes the  
2 following written statement which the peace officer shall give to the  
3 victim and shall also read to the victim if circumstances allow:

4 "As a victim of domestic violence you may request  
5 that the officer present do the following things:

- 6 (1) stay as long as needed to make sure that you are safe;  
7 (2) take you to the nearest hospital or health provider  
8 if you need medical care.

9 As a victim of domestic violence you have the right to  
10 demand that the officer present do the following things:

- 11 (1) take you to a place nearby where you will be safe if  
12 you want to leave here; and  
13 (2) tell you how to contact the nearest organization that  
14 offers aid or shelter to victims of domestic violence.

15 You have the right to ask the court to issue an order  
16 protecting you and the children from domestic violence and  
17 providing other necessary assistance, which may include  
18 ordering the attacker out of the home and giving you temporary  
19 custody of the children.

20 If the attacker does not obey a court order to get out  
21 of the house or to leave you alone, the attacker can be  
22 arrested immediately. To get a court order contact the  
23 superior court in (name of place) and they will help you.  
24 You must do this within 10 DAYS. To get an order quickly  
25 in an emergency, you may also contact the district court  
26 in (name of place) or (name of magistrate).

27 The court order is designed to protect YOU or the  
28 children. You also have the right to file a criminal  
29 complaint against the attacker."

1 (c) If the victim does not understand English, the officer shall  
2 make reasonable efforts to explain the rights provided in this section  
3 in a language the victim understands.

4 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
5 violence who is an adult or an emancipated minor may, within 10 days of  
6 the act of domestic violence, petition a superior court or, if the  
7 circumstances described in (c) of this section exist, petition a dis-  
8 trict judge or magistrate under (c) of this section for an order

9 (1) restraining the assailant from subjecting the petitioner  
10 to domestic violence;

11 (2) directing the assailant to vacate the home of the peti-  
12 tioner;

13 (3) restraining the assailant from contacting the petitioner,

14 (4) directing the assailant to pay support for the petitioner  
15 or for the minor children in the care of the petitioner if there is an  
16 independent legal obligation of the assailant to support the petitioner  
17 or the children;

18 (5) awarding temporary custody of a minor child to the peti-  
19 tioner;

20 (6) directing the assailant to pay the petitioner for losses  
21 suffered as a result of the domestic violence, including medical and  
22 moving expenses, loss of earnings or support, and other out-of-pocket  
23 losses resulting from injuries sustained.

24 (b) Upon receiving a petition under (a) of this section, the  
25 superior court shall schedule a hearing and shall provide at least three  
26 days notice to the respondent of the hearing and of the respondent's  
27 right to appear and to be heard either in person or by attorney. If,  
28 after the hearing, the superior court finds the allegations of the  
29 petitioner to be true, the superior court may issue any of the orders

1 for relief described in (a) of this section or any other order the  
2 superior court determines to be necessary for the protection of the  
3 health, safety and welfare of the petitioner or of a minor child in the  
4 care of the petitioner.

5 (c) The superior court or a district judge or magistrate may issue  
6 a temporary order without following the notice and hearing requirements  
7 of (b) of this section if (1) the petitioner demonstrates a substantial  
8 likelihood of immediate danger from the respondent to the health, safety  
9 or welfare of the petitioner or of a minor child in the care of the  
10 petitioner; and (2) the court or district judge or magistrate determines  
11 that the order is necessary to protect the petitioner or a minor child  
12 in the care of the petitioner. Immediately after issuing a temporary  
13 order under this subsection or upon receiving notice of an order issued  
14 by a district judge or magistrate under this subsection, the superior  
15 court shall notify the respondent and give the respondent an opportunity  
16 to be heard as soon as possible, but in no event later than 10 days,  
17 after the order is issued on the question of continuing the temporary  
18 order.

19 (d) Relief granted by a superior court under this section shall be  
20 for a fixed period of time not to exceed 45 days; however, upon motion  
21 by the petitioner and after hearing, the superior court may issue an  
22 order for an additional period of time as it considers necessary to  
23 protect the petitioner from domestic violence. The superior court may  
24 modify its order at any time upon petition of either party.

25 (e) Proceedings under this section do not preclude any other  
26 available civil or criminal remedies.

27 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
28 system, in cooperation with interested persons and organizations, shall  
29 prepare forms and instructions for the use of persons seeking an order

1 for relief under AS 09.55.660, including forms for waiving filing fees  
2 on the basis of indigency. The forms shall conform to the requirements  
3 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
4 information on the forms may be filled in by legible handwriting. The  
5 office of the clerk of each superior court shall make the forms and  
6 instructions available to the public.

7 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
8 superior court, district judge or magistrate issues an order described  
9 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or  
10 magistrate shall transmit a copy of the order to the appropriate local  
11 law enforcement agency. Law enforcement agencies shall establish pro-  
12 cedures adequate to inform their peace officers of the existence and  
13 terms of orders transmitted to the law enforcement agencies under this  
14 section. Peace officers shall use every reasonable means to enforce the  
15 orders.

16 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
17 agencies shall establish training procedures for peace officers, or  
18 shall include training in existing training procedures for peace offi-  
19 cers, which acquaint peace officers with the rights of the victim of  
20 domestic violence, the types of orders which may be issued under AS 09.-  
21 55.660, and techniques for handling incidents of domestic violence which  
22 promote the safety of the victim and reduce the likelihood of recur-  
23 rence.

24 Sec. 09.55.690. CRIMINAL PENALTIES. (a) An intentional violation  
25 of an order described in AS 09.55.660(a)(1) or (2) or an intentional  
26 violation of an order described in AS 09.55.660(a)(3) involving the  
27 confrontation of the victim of domestic violence by the assailant is a  
28 class B misdemeanor. A second intentional violation of an order des-  
29 cribed in this section is punishable by a minimum sentence of imprison-

1       ment of not less than 72 consecutive hours. The execution of a sentence  
2       may not be suspended and probation or parole may not be granted until  
3       the minimum imprisonment provided in this section has been served. The  
4       imposition of sentence may not be suspended, except upon condition that  
5       the defendant be imprisoned for no less than the minimum period provided  
6       in this section.

7               (b) A peace officer may arrest a person if he has reasonable cause  
8       for believing that the person has violated an order described in (a) of  
9       this section.

10              Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
11       09.55.700,

12              (1) "domestic violence" means the intentional perpetration of  
13       any of the following acts by a person against a household member, a  
14       spouse, former spouse, or blood relative of the person:

15                   (A) attempting to cause or causing physical harm to the  
16       other person or to a minor child in the care of the other person;

17                   (B) placing the other person or a minor child in the  
18       care of the other person in fear of imminent serious physical harm;

19                   (C) causing the other person to engage involuntarily in  
20       sexual relations by force, threat of force or duress;

21              (2) "facility offering shelter to victims of domestic vio-  
22       lence" includes a facility offering programs which provide emergency or  
23       short-term lodging or housing for adults who are victims of domestic  
24       violence and their children.

25       \* Sec. 2. AS 12.25.030(b) is amended to read:

26              (b) In addition to the authority granted under (a) of this sec-  
27       tion, a peace officer without a warrant

28                   (1) may arrest a person when he has reasonable cause for  
29       believing that the person has committed assault in the third degree

1 under AS 11.41.230(a)(1) against a member of the person's household;  
2 (2) may arrest a person when he has reasonable cause for be-  
3 lieving that the person has committed an offense listed in AS 09.55.-  
4 690(a).

5 \* Sec. 3. AS 18.55.330 is amended to read:

6 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
7 VIOLENCE. (a) The authority shall initially offer 50 percent of the  
8 dwelling units in a housing project for rent or sale to veterans. The  
9 offer shall be by publication of reasonable notice in a newspaper cir-  
10 culated in the area in which the housing project is located. The autho-  
11 rity shall set aside these units for rental or sale to veterans for at  
12 least 30 days following first publication of the notice before making  
13 them available to other residents. If [, AFTER AN ADDITIONAL 30 DAYS] a  
14 unit remains unassigned after the 30-day period, the authority may rent  
15 or sell it to any person in the state, provided that victims of domestic  
16 violence who move from their homes to avoid further domestic violence  
17 [RESIDENTS] have first preference and other residents have second pre-  
18 ference.

19 (b) Victims of domestic violence who move from their homes to  
20 avoid further domestic violence have first preference for dwelling units  
21 in a housing project not set aside for veterans under (a) of this sec-  
22 tion.

23 (c) The authority shall adopt regulations in accordance with the  
24 Administrative Procedure Act (AS 44.62) to implement the preference in  
25 this section for victims of domestic violence. The regulations shall  
26 include criteria for determining when a person is a victim of domestic  
27 violence based on AS 09.55.650 - 09.55.700.

28 (d) The preferences in this section for veterans and victims of  
29 domestic violence apply to state housing projects. These preferences

1 also apply to housing projects receiving financial aid, assistance, or  
2 cooperation from the federal government unless the United States Depart-  
3 ment of Housing and Urban Development prohibits or disapproves the pre-  
4 ferences.

5 \* Sec. 4. AS 22.15.100 is amended by adding a new paragraph to read:

6 (9) to issue a temporary order in domestic violence cases as  
7 provided in AS 09.55.660(c); the district judge or magistrate shall  
8 notify the superior court immediately upon issuance of a temporary order  
9 under this paragraph.

10 \* Sec. 5. Section 1 of this Act has the effect of changing Rule 3, Rules  
11 of Civil Procedure, by enacting a provision that allows a court to proceed  
12 upon the filing of a petition rather than a complaint, and Rule 76, Rules of  
13 Civil Procedure, by enacting a provision that allows a court to accept for  
14 filing petitions which are handwritten in part. Section 1 of this Act also  
15 has the effect of changing Rule 65, Rules of Civil Procedure, by enacting a  
16 provision that establishes an alternate procedure for obtaining orders for  
17 relief from domestic violence.  
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Introduced: 3/14/79  
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,  
DUNCAN, HAYES, MEEKINS, MILLER,  
PARR, ROGERS, SCHAEFFER AND  
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending  
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 \* Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer  
12 has reason to believe that an adult or an emancipated minor is a victim  
13 of domestic violence, the officer shall use all reasonable means to  
14 prevent further domestic violence and to assure the safety of the  
15 victim, including

16 (1) remaining on the scene of the domestic violence as long  
17 as there would be a danger to the physical safety of the victim without  
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical  
20 treatment if necessitated by an assault, including transportation to the  
21 emergency room of the nearest hospital or to the nearest health  
22 provider;

23 (3) assisting the victim in removing to a safe place nearby,  
24 or to the nearest facility offering shelter to victims of domestic  
25 violence;

26 (4) giving the victim immediate notice of rights provided  
27 under this section and of the existence of the nearest facility offering  
28 shelter to victims of domestic violence;

29 (5) arresting the assailant

*safety of the victim*

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*How many more  
officers would we  
need?*

*Section 1*

1 (A) if the peace officer has reasonable cause to believe  
2 that the assailant has committed domestic violence which is a  
3 felony,

4 (B) if domestic violence which is a misdemeanor is  
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the  
8 following written statement which the peace officer shall read and give  
9 to the victim:

10 "As a victim of domestic violence you have the right  
11 under law to demand that the officer present do the following  
12 things:

- 13 { (1) stay as long as needed to make sure that you are safe;  
14 { (2) take you to the nearest hospital or health provider  
15 if you need medical care;  
16 { (3) take you to a place nearby where you will be safe if  
17 you want to leave here; and  
18 { (4) tell you how to contact the nearest organization that  
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to  
21 do any or all of the following things:

- 22 (1) order your attacker to stop hurting or threatening  
23 you or your children;  
24 (2) order your attacker to get out of the house;  
25 (3) order your attacker not to communicate with you  
26 in any way;  
27 (4) give you temporary custody of your children;  
28 (5) order your attacker to pay for your costs which  
29 result from the attack, including medical and moving costs,

*Publication  
the perception  
that victims  
have the right  
to sue for  
the person who  
commits a crime.  
opposed to  
other situations*

*Part 5  
Make  
sure  
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court  
has  
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right  
to  
order  
the  
attacker  
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pay  
for  
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costs  
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attacker.*

1 loss of earnings or support, or other costs for injuries you  
2 or your children received.

3 If your attacker does not obey a court order to get out  
4 of the house or to leave you alone, your attacker can be  
5 arrested immediately. To get a court order contact the  
6 superior court in (name of place) and they will help you.  
7 You must do this within 10 days. To get an order quickly  
8 in an emergency, you may also contact the district court  
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you. You also  
11 have the right to file a criminal complaint against your  
12 attacker."

13 (c) If the victim does not understand English, the officer shall  
14 make reasonable efforts to explain the rights provided in this section  
15 in a language the victim understands.

16 Sec. J9.55.660. ORDER FOR RELIEF. (a) A victim of domestic  
17 violence who is an adult or an emancipated minor may, within 10 days of  
18 the act of domestic violence, petition a superior court or, if the  
19 circumstances described in (c) of this section exist, petition a dis-  
20 trict judge or magistrate under (c) of this section for an order

21 (1) restraining the assailant from subjecting the petitioner  
22 to domestic violence;

23 (2) directing the assailant to vacate the home of the peti-  
24 tioner;

25 (3) restraining the assailant from contacting the petitioner;

26 (4) directing the assailant to pay support for the petitioner  
27 or for the minor children in the care of the petitioner if there is an  
28 independent legal obligation of the assailant to support the petitioner  
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-  
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses  
4 suffered as a result of the domestic violence, including medical and  
5 moving expenses, loss of earnings or support, and other out-of-pocket  
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the  
8 superior court shall schedule a hearing and shall provide at least three  
9 days notice to the respondent of the hearing and of the respondent's  
10 right to appear and to be heard either in person or by attorney. If,  
11 after the hearing, the superior court finds that the petitioner has been  
12 subjected to domestic violence by the respondent, the superior court may  
13 issue any of the orders for relief described in (a) of this section or  
14 any other order the superior court determines to be necessary for the  
15 protection of the health, safety and welfare of the petitioner or of a  
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue  
18 a temporary order without following the notice and hearing requirements  
19 of (b) of this section if (1) the petitioner demonstrates a substantial  
20 likelihood of immediate danger from the respondent to the health, safety  
21 or welfare of the petitioner or of a minor child in the care of the  
22 petitioner; and (2) the court or district judge or magistrate determines  
23 that the order is necessary to protect the petitioner or a minor child  
24 in the care of the petitioner. Immediately after issuing a temporary  
25 order under this subsection or upon receiving notice of an order issued  
26 by a district judge or magistrate under this subsection, the superior  
27 court shall notify the respondent and give the respondent an opportunity  
28 to be heard as soon as possible, but in no event later than 10 days,  
29 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be  
3 for a fixed period of time not to exceed 45 days; however, upon motion  
4 by the petitioner and after hearing, the superior court may issue an  
5 order for an additional period of time as it considers necessary to  
6 protect the petitioner from domestic violence. The superior court may  
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other  
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court  
11 system, in cooperation with interested persons and organizations, shall  
12 prepare forms and instructions for the use of persons seeking an order  
13 for relief under AS 09.55.660, including forms for waiving filing fees  
14 on the basis of indigency. The forms shall conform to the requirements  
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that  
16 information on the forms may be filled in by legible handwriting. The  
17 office of the clerk of each superior court shall make the forms and  
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a  
20 superior court, district judge or magistrate issues an order described  
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or  
22 magistrate shall transmit a copy of the order to the appropriate local  
23 law enforcement agency. Law enforcement agencies shall establish pro-  
24 cedures adequate to inform their peace officers of the existence and  
25 terms of orders transmitted to the law enforcement agencies under this  
26 section. Peace officers shall use every reasonable means to enforce the  
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement  
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-  
2 cers, which acquaint peace officers with the rights of the victim of  
3 domestic violence, the types of orders which may be issued under AS 09.-  
4 55.660, and techniques for handling incidents of domestic violence which  
5 promote the safety of the victim and reduce the likelihood of recur-  
6 rence.

7  
8 Sec. 09.55.690. CRIMINAL PENALTIES. <sup>inclusion</sup> (a) Violation of an order  
9 described in AS 09.55.660(a)(1), (2) or (3) is a misdemeanor punishable  
10 by imprisonment for up to 60 days, or by a fine of up to \$500, or by  
11 both. A second violation of an order described in AS 09.55.660(a)(1),  
12 (2) or (3) is punishable by no less than three days imprisonment.

13 (b) A peace officer shall <sup>as provided under (A.S. 12.25.105 (2) and (b))</sup> arrest and detain a person found by the  
14 peace officer to be in violation of an order described in AS 09.55.660-  
15 (a)(1), (2) or (3) if the order is in full force and effect.

16 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -  
17 09.55.700,

18 (1) "domestic violence" means the intentional perpetration of  
19 any of the following acts by a person against a household member, a  
20 spouse, former spouse, or blood relative of the person:

21 (A) attempting to cause or causing physical harm to the  
22 other person or to a minor child in the care of the other person;

23 (B) placing the other person or a minor child in the  
24 care of the other person in fear of imminent serious physical harm;

25 (C) causing the other person to engage involuntarily in  
26 sexual relations by force, threat of force or duress;

27 (2) "facility offering shelter to victims of domestic vio-  
28 lence" includes facilities offering programs which provide emergency or  
29 short-term lodging or housing for adults who are victims of domestic  
violence and their children.

44  
  
Victim  
 felony

1 \* Sec. 2. AS 18.55.330 is amended to read:

2           Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC  
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the  
4 dwelling units in a housing project for rent or sale to veterans. The  
5 offer shall be by publication of reasonable notice in a newspaper cir-  
6 culated in the area in which the housing project is located. The autho-  
7 rity shall set aside these units for rental or sale to veterans for at  
8 least 30 days following first publication of the notice before making  
9 them available to other residents. If, after an additional 30 days a  
10 unit remains unassigned, the authority may rent or sell it to any person  
11 in the state, provided that victims of domestic violence who move from  
12 their homes to avoid further domestic violence [RESIDENTS] have first  
13 preference and other residents have second preference.

14           (b) Victims of domestic violence who move from their homes to  
15 avoid further domestic violence have first preference for dwelling units  
16 in a housing project not set aside for veterans under (a) of this sec-  
17 tion.

18           (c) The authority shall adopt regulations in accordance with the  
19 Administrative Procedure Act (AS 44.62) to implement the preference in  
20 this section for victims of domestic violence. The regulations shall  
21 include criteria for determining when a person is a victim of domestic  
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 \* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24           (9) to issue a temporary order in domestic violence cases as  
25 provided in AS 09.55.660(c); the district judge or magistrate shall  
26 notify the superior court immediately upon issuance of the temporary  
27 order.

28 \* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska  
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-  
2 cedure, by allowing the courts to accept for filing petitions which are hand-  
3 written in part. Section 1 of this Act also has the effect of amending Rule  
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure  
5 for obtaining orders for relief from domestic violence.

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HB 392

March 28

home 283-4359

Joan Schnaader  
Mrs. ~~Alford~~  
HB 392

page 6, lines 24 & 25

incest - no force  
duress = implied force

more clarification needed  
should protect incest victim