

HB

261

(SEE HB 223)

H B

287

POSITION PAPER  
ON  
HOUSE BILL NO. 287

"An Act relating to domestic violence."

The Department of Health and Social Services supports the amendments to House Bill No. 287. During the 1980 legislative session, the Department supported House Bill No. 392 which eventually became the present statute. Since that time, the local programs of Domestic Violence and Sexual Assault have coordinated closely with the public safety and police officers of each major community. The Alaska Network on Domestic Violence and Sexual Assault has assisted in preparing training for police officers at the Academy; and victims of domestic violence are beginning to use the right for restraining orders. Each of the domestic violence programs has had an increase in number of clients during the year; perhaps some of this has been due to the obligation now placed on a police/public safety officer to inform a victim of the availability of a protected environment.

It has become evident with the use of the current statute that complex living situations do exist in Alaska and that violence frequently occurs within those interrelated "families" - no matter what the definition of family. According to the publication "Crime in Alaska," published by CJPA, in 1980, of 39 murders in the state, 12 victim/offenders were family members.

The Department is also aware that for many women a period of 45 days to "solve her problems" and make decisions about life decisions is frequently too short a time; if the perpetrator chooses to seek help, in order to help solve the relationship problem, a period of 45 days is by no means long enough to help him learn new methods and techniques of handling stress. Therefore, the Department supports the extension of the restraining order.

Recommended by: Elizabeth Muktarian  
Elizabeth Muktarian  
Director  
Div. of Adult and  
Aging Services

Date: 3/24/81

Approved by: Helen D. Beirne  
Helen D. Beirne  
Commissioner  
Dept. of Health and  
Social Services

Date: 3/26/81

THE LEGISLATURE OF THE STATE OF ALASKA  
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 287

Title "An Act Relating to domestic violence."

Requested by \_\_\_\_\_ Date March 17, 1981

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Social & Economic Assistance for the General Population

BRU, Program, or Subprogram(s) Affected Division of Adult & Aging Services - Adult Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
<b>TOTAL</b>		-0-				

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Zero Impact

IV. DATE

3-17-81

PREPARED BY Dorothy Walt  
AGENCY Division of Adult and Aging Services  
PHONE 465-3250

Original: Legislative Finance  
cc: Budget and Management

Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 3/24/81

(e) The court may appoint an attorney or a guardian ad litem to represent the interests of the petitioner at the hearing.

(f) The court may remove the disabilities of minority as requested in the petition if found to be in the best interest of the petitioner, after a hearing. The removal may be for general purposes or the limited purposes specified in the decree.

(g) Except for specific constitutional and statutory age requirements for voting and use of alcoholic beverages, a minor whose disabilities are removed for general purposes has the power and capacity of an adult, including but not limited to the right to control himself or herself, the right to be domiciled where he or she desires, the right to receive and control his or her earnings, to sue or to be sued, and the capacity to contract. (§ 2 ch 233 SLA 1976)

**Article 9. Domestic Violence.**

<p>Section 600. Injunctive relief in case involving domestic violence 610. Emergency injunctive relief in cases involving domestic violence</p>	<p>Section 620. Forms for filing petition 630. Notification to law enforcement agencies 640. Definitions</p>
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**Cross reference.** — As to domestic violence police training, see AS 18.65, art. 6.

**Editor's note.** — Section 5, ch. 139, SLA 1980, provides: "Section 1 of this Act has the effect of changing Rule 3, Rules of Civil Procedure, by enacting a provision that allows a court to proceed upon the filing of a petition rather than a complaint,

and Rule 76, Rules of Civil Procedure, by enacting a provision that allows a court to accept for filing petitions which are handwritten in part. Section 1 of this Act also has the effect of changing Rule 65, Rules of Civil Procedure, by enacting a provision that establishes an alternate procedure for obtaining orders for relief from domestic violence."

**Sec. 09.55.600. Injunctive relief in cases involving domestic violence.** (a) A person who is subjected to domestic violence may petition a superior court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent.

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

(1) restrain the respondent from subjecting the petitioner to domestic violence;

(2) direct the respondent to vacate the home of the petitioner;

(3) restrain the respondent from communicating directly or indirectly with the petitioner;

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

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

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

(c) An order issued under this section remains in effect for a period of time not to exceed 45 days. However, the petitioner may petition the superior court for extensions of a provision of the order if the provision is described in (b)(1), (b)(2) or (b)(3) of this section. If the superior court, after notice to the respondent of and a hearing on the petition for the extension in accordance with the procedures described in (b) of this section, finds that an extension of the provision of the order is necessary to protect the petitioner from domestic violence, the superior court may extend the provision of the order for a period of time not to exceed 45 days.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies. (§ 1 ch 139 SLA 1980)

**Cross reference.** — As to release before trial in cases involving domestic violence, see AS 12.30.025.

**Sec. 09.55.610. Emergency injunctive relief in cases involving domestic violence.** (a) A person who has been subjected to domestic violence may petition the superior court for a temporary order providing for emergency injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent. If there is no superior court within 50 road miles of the residence of the person subjected to domestic violence, the person may petition the nearest district court for a temporary emergency injunctive relief order. If there is no district court within 50 road miles of the residence of the person subjected to domestic violence, the person may petition the nearest magistrate for a temporary emergency injunctive relief order. The district court or magistrate shall notify the superior court immediately upon issuance of an order granting emergency injunctive relief under this section.

(b) An order under this section may be granted without written or oral notice to the respondent if the court finds that the petitioner has been subjected to domestic violence and

(1) it clearly appears that there is a substantial likelihood of immediate danger from the respondent to the health, safety, or welfare

of the petitioner or of a minor child in the care of the petitioner; and

(2) the petitioner or the petitioner's attorney certifies to the court in writing the efforts, if any, which have been made to provide notice to the respondent and the reasons supporting the claim that notice should not be required.

(c) An order issued under this section may include a provision described in AS 09.55.600(b). The order shall be endorsed with the date and hour of issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state the reason that it was granted without notice. The order shall remain in effect for a period not to exceed 10 days, unless extended by the court for good cause. The reasons for the extension shall be entered in the records of the court.

(d) If an order under this section is granted without notice, a hearing before the superior court for injunctive relief under AS 09.55.600 shall be scheduled by the superior court at the earliest possible time consistent with the notice provisions of AS 09.55.600. If at the hearing the petitioner does not proceed with the petition for injunctive relief, the superior court shall dissolve the emergency injunctive relief order.

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

(f) Proceedings under this section do not preclude other available civil or criminal remedies. (§ 1 ch 139 SLA 1980)

**Cross reference.** — As to release before trial in cases involving domestic violence, see AS 12.30.025.

**Sec. 09.55.620. Forms for filing petition.** (a) 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 09.55.600 or 09.55.610, including forms for waiving filing fees on the basis of indigency. The forms shall conform to the requirements of AS 09.55.600 and 09.55.610 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 and district court shall make the forms and instructions available to the public.

(b) The form for a petition prepared under (a) of this section shall include a notice that a false statement made in it stating that the respondent has subjected the petitioner to domestic violence constitutes the crime of unsworn falsification under AS 11.56.210, which is punishable by a maximum term of imprisonment of one year

**Sec. 09.55.630. Notification to law enforcement agencies.** If a superior court, district court, or magistrate issues an order under AS 09.55.600 or 09.55.610 restraining a respondent from subjecting a petitioner to domestic violence, the superior court, district court, or magistrate shall transmit a copy of the order to the appropriate local law enforcement agency. Each law enforcement agency shall establish procedures to inform their peace officers of copies of the orders received by the law enforcement agency under this section. Peace officers shall use every reasonable means to enforce an order issued under AS 09.55.600 or 09.55.610. (§ 1 ch 139 SLA 1990)

**Sec. 09.55.640. Definitions.** For the purposes of AS 09.55.600 — 09.55.640, "domestic violence" means a crime under AS 11.41 committed against a spouse, a former spouse, or a member of the social unit comprised of those living together in the same dwelling as the respondent. (§ 1 ch 139 SLA 1980)

## Chapter 60. Costs.

### Sec. 09.60.010. Costs allowed prevailing party.

The authority to make awards of attorney fees is derived from this section, which is of relatively ancient origin, dating from an Act of Congress of June 6, 1900, 31 Stat. 415-18, which was amended in 1923 by the Territorial Legislature of Alaska to expressly permit the courts to impose reasonable attorney's fees. *Steponov v. Gavrilovich*, Sup. Ct. Op. No. 1823 (File No. 3236), 594 P.2d 30 (1979).

Rule 82(a), which allows for the recovery of reasonable attorney's fees, is supported by legislation which specifies that the supreme court shall determine when attorney's fees are to be awarded. Thus, the award of attorney's fees is authorized, though not mandated, by statute. *Klopfenstein v. Pargeter*, 597 F.2d 160 (9th Cir. 1979).

Civil R. 82 established pursuant to delegation of authority in section. — Civil R. 82, authorizing awards of attorney's fees to the prevailing party in civil litigation, apart from eminent domain proceedings, was established by the supreme court pursuant to a legislative delegation of authority found in this section. *Crisp v. Kenni Peninsula Borough School Dist.*, Sup. Ct. Op. No. 1771 (File No. 3318), 587 P.2d 1168 (1978).

"Prevailing party".

In accord with original. See *Cooper v. Carlson*, Sup. Ct. Op. No. 907 (File No.

A party does not have to prevail on all of the issues in the case to be a "prevailing party." *Malvo v. J.C. Penney Co.*, Sup. Ct. Op. No. 901 (File No. 1630), 512 P.2d 575 (1973).

A litigant who is successful in defeating a claim of great potential liability may be the prevailing party even though the other side is successful in receiving an affirmative recovery. *Cooper v. Carlson*, Sup. Ct. Op. No. 907 (File No. 1769), 511 P.2d 1305 (1973).

Where a party prevailed on every liability issue, and was unsuccessful only in his argument that he was entitled to nominal damages on his counterclaim, he was the prevailing party. *Cooper v. Carlson*, Sup. Ct. Op. No. 907 (File No. 1769), 511 P.2d 1305 (1973).

As a general rule, the "prevailing party" is considered to be the party who has successfully prosecuted or defended against the action, the one who is successful on the "main issue" of the action and in whose favor the decision or verdict is rendered and the judgment entered. In re *Adoption of V.M.C.*, Sup. Ct. Op. No. 1103 (File No. 2107), 528 P.2d 788 (1974).

The determination of which party prevails, etc.

Like the award itself, the actual determination of who the "prevailing" party is within the discretion of the trial

(2) held to answer to the grand jury and the court dismisses the charge because the indictment is not found against him at the next session of the grand jury; or

(3) indicted for a crime and the indictment is dismissed because the trial is not held within a reasonable period of time, and there is not good cause shown for the delay, and the delay was not upon the application of the defendant or with his consent.

(b) Unless the court directs a judgment of acquittal to be entered, it is not a bar to another action for the same crime if the court orders an indictment to be discharged because the prosecuting attorney is not prepared to go to trial when the indictment is called for trial and does not show sufficient cause for postponing the trial. (§ 1.15 ch 34 SLA 1962)

Cross reference. — See Cr. R. 43.

**Sec. 12.20.060. Discharge of codefendant as bar.** It is an acquittal of the defendant discharged and a bar to another prosecution for the same crime when two or more persons are charged in the same indictment, and the court dismisses the indictment against any defendant either

(1) before the defendant has gone into his defense and on the application of the prosecuting attorney so that he may be a witness for the state; or

(2) before the evidence is closed and on the application of another defendant on trial so that he may be witness for a codefendant, and when, in the opinion of the court, there is not sufficient evidence to put that defendant on his defense. (§ 1.16 ch 34 SLA 1962)

### Chapter 25. Arrest.

Section	Section
10. Persons authorized to arrest	110. Breaking open building or vessel to liberate
20. Judge or magistrate may order arrest	120. Retaking escaped prisoner
30. Grounds for arrest by private person or peace officer without warrant	130. [Repealed]
33. Grounds for arrest by peace officer without warrant	140. Property taken from defendant on arrest
35. Arrest without warrant by state trooper when judicial officer is unavailable	150. Rights of prisoner after arrest
40. Taking before judge or magistrate person arrested by bystander	160. Arrest defined
50. Method of making arrest	180. When peace officer has option to take person before judge or magistrate
60. Method of arrest by officer without warrant	190. When person to be given five-day notice to appear in court
70. Limitation on restraint in arrest	200. Form for citations
80. Means to effect resisted arrest	210. Disposition and records of citations
90. Authority to summon aid to make arrest	220. When copy of citation considered a lawful complaint
	230. Failure to obey citation

**Sec. 12.25.010. Persons authorized to arrest.** An arrest may be made by a peace officer or by a private person. (§ 2.02 ch 34 SLA 1962)

Am. Jur. 2d, ALR and C.J.S. 6A C.J.S. Arrest §§ 10-42; 22 C.J.S. references. — 5 Am. Jur. 2d, Arrest, Criminal Law §§ 144-146, 300-366. §§ 3-51, 69-94; 21 Am. Jur. 2d, Criminal Law, §§ 442-460; 68 Am. Jur. 2d, Searches and Seizures, § 1 et seq.

**Sec. 12.25.020. Judge or magistrate may order arrest.** When a crime is committed in the presence of a judge or magistrate, he may, by an oral or written order, command any person to arrest the offender, and may immediately proceed as though the offender had been brought before him on a warrant of arrest. (§ 2.03 ch 34 SLA 1962; am § 7 ch 8 SLA 1971)

Legislative history report. — For report on ch. 8, SLA 1971 (HB 15), see 1971 House Journal, p. 52.

**Sec. 12.25.030. Grounds for arrest by private person or peace officer without warrant.** (a) A private person or a peace officer without a warrant may arrest a person

- (1) for a crime committed or attempted in his presence;
- (2) when the person has committed a felony, although not in his presence;
- (3) when a felony has in fact been committed, and he has reasonable cause for believing the person to have committed it.

(b) In addition to the authority granted under (a) of this section, a peace officer without a warrant may arrest a person when he has reasonable cause for believing that the person has committed assault in the fourth degree under AS 11.41.230(a)(1) against a member of the person's household.

(c) As used in this section "household" means the social unit comprised of those living together in the same dwelling. (§ 2.04 ch 34 SLA 1962; am § 11 ch 166 SLA 1978; am § 33 ch 102 SLA 1980)

Effect of amendments. — The 1978 amendment added subsections (b) and (c). The 1980 amendment substituted "fourth" for "third" in subsection (b).

Legislative history report. — For report on ch. 102, SLA 1980 (HCS CSSB 511), see 1980 Senate Journal Supplement, No. 44, May 29, 1980 or 1980 Supplement No. 79, May

Common law breach-of-the-peace requirement discarded. — Although at common law a police officer was authorized to arrest without a warrant anyone who had committed a misdemeanor in his presence amounting to a breach of the peace, over the years most states, including Alaska, have dropped the breach-of-the-peace requirement, retaining the in-the-presence. *Howen v. State*, Sup. Ct. Op. No. 846 (File

DOMESTIC VIOLENCE CENTER

APR 13 1981

302 Charles Street  
Fairbanks, Alaska 99701  
452-2283

April 8, 1981

Carla Slaughter Timpone  
c/o Sally Smith  
Pouch V.  
Juneau, Alaska 99811

Dear Carla:

I just wanted to put on record some of my observations concerning proposed HB 287 which were not reflected in Carla Huntington's testimony before House HESS on March 27th. I'm also sending a copy of this letter to Fred Brown if there's anything you particularly want to follow through on.

Section 5 which delineates the relationships that must exist in order for an individual to be eligible for relief clearly neglects the woman separated from a non-married family unit. The way the non-revised section reads there is room for interpretation. Some judges in Fairbanks have chosen to interpret the section defining eligibility very strictly, denying assistance to women who have been a member of such a family unit but are now separated. Quite often the separation is a result of the violence that had existed throughout the partners' relationship. Recently two (2) cases came before the Fairbanks courts calling the relationship of unmarried partners into question. In the first, a woman separated for six days from her partner of 1 year requested emergency relief from the courts. The police had been called two (2) times in the course of six days. Her request was denied based on her non-eligibility though the Judge did note that the likelihood of continued violence did exist. In the second case, a woman separated for six (6) days requested emergency relief from the court. A violent episode had precipitated the separation. A law clerk informed her of her non-eligibility status but we went ahead and filed. The judge hearing the case granted the relief.

As it stands now the section is open to variances as in the above two (2) cases. With the revision it appears that both of the cases would have been denied. Neither alternative serves our purposes. If the decision is to specify all those eligible in section 5 than an additional sentence should be added regarding women with this status.



women in crisis - counseling & assistance

As the old section stands there needs to be some way of clarifying this relationship so that the decision is not left up to the judge's discretion.

The other problem which has occurred twice within the last month is using the court's procedure in following through on violations of the relief order. In one case a woman had filed a petition in Anchorage where it was granted. The order stated that the couple were not to have contact in her apartment nor could he at any time threaten or physically abuse her. Traveling up to Fairbanks there was another violent episode. In Fairbanks she filed an Order to Show Cause, an affidavit testifying to his violation. The Fairbanks court decision was that she file a new petition, even though the old petition was still in effect. Due to jurisdictional problems there needs to be some provision for not only recognizing the petition state-wide but for amending and dealing with its violations from jurisdictional area to jurisdictional area. If not, individuals are required to pay an additional \$50.00 filing fee and then repeat the court process a second time.

In a second case, a woman had requested an emergency and an extended order from the courts. Both of which were granted. Aside from ordering no further violence, the petitioner was granted \$200/month child support, \$100/month spousal support and 100% payment of medical expenses resulting from injuries received during the violent episode. Her husband, the respondent, had no objections to the order but in the intervening 45 days has refused to comply with the payment. His wife filed an Order to Show Cause, notifying the court of his non-compliance. The court refused to sign the order. It appears that judges are unwilling to sign the orders for violation of ~~any~~ <sup>payment</sup> portion of the petition because a violation of any portion of the petition is criminal contempt requiring 10 day jail sentences. Since there are no other jail sentences for non-payment, the judges choose not to sign the order. While I'm not suggesting we go back to having debtor's prisons, we need to come up with some way of putting some teeth into the orders regarding child support and payment of medical expenses. Going to Child Support Enforcement Agency (CSEA) doesn't seem to be the answer. So this time I'm pointing out the problem; unfortunately no solution comes to mind.

Well I hope there's some sense somewhere in all of this. Thanks for digging through it.

Take care,

*Adie*

Adie

*Legal Advocate for WIC-CA*

AG/mw

cc: Fred Brown  
Carla Huntington

Original sponsors: Clocksin and Malone

Offered: 4/9/81  
Referred: Judiciary

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 287 (HESS)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL  
6 For an Act entitled: "An Act relating to domestic violence."

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

8 \* Section 1. AS 09.50.020 is amended by adding a new subsection to read:

9 (b) Notwithstanding (a) of this section, disobedience of an order  
10 issued under AS 09.55.600 or 09.55.610 is a class B misdemeanor.

11 \* Sec. 2. AS 09.55.600(b) is amended by adding new paragraphs to read:

12 (7) direct the respondent to engage in personal or family  
13 counseling;

14 (8) restrain the respondent from entering a propelled  
15 vehicle <sup>in possession of</sup> the petitioner.

16 \* Sec. 3. AS 09.55.600(c) is amended to read:

17 (c) An order issued under this section remains in effect for a  
18 period of time not to exceed 90 [45] days. However, the petitioner may  
19 petition the superior court for an extension [EXTENSIONS] of a provision  
20 of the order if the provision is described in (b)(1), (b)(2) or (b)(3)  
21 of this section. If the superior court, after notice to the respondent  
22 of and a hearing on the petition for the extension in accordance with  
23 the procedures described in (b) of this section, finds that an extension  
24 of the provision of the order is necessary for the protection of the  
25 health, safety or welfare of the petitioner or of a minor child in the  
26 care of the petitioner [TO PROTECT THE PETITIONER FROM DOMESTIC VIO-  
27 LENCE], the superior court may extend the provision of the order for a  
28 period of time not to exceed 45 days. The court may not grant more  
29 than one extension under this subsection.

Delete

Class B  
of...  
45 days max

1 \* Sec. 4. AS 09.55.610(c) is amended to read:

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

10 \* Sec. 5. AS 09.55.610(e) is amended to read:

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

16 \* Sec. 6. AS 09.55.640 is amended to read:

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

23 \* Sec. 7. AS 11.46.350(a) is amended by adding a new paragraph to read:

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

27 \* Sec. 8. AS 11.61.120(a) is amended by adding a new paragraph to read:

28 (6) violates a provision of an order issued under AS 09.55.-  
29 600(b) or 09.55.610 restraining the respondent from communicating

1 directly or indirectly with the petitioner.

2 \* Sec. 9. AS 12.25.030(b) is amended to read:

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

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

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

19 \* Sec. 11. AS 12.55.135(c) is amended to read:

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

1 \* Sec. 12. AS 18.65.520(a) is amended to read:

2 (a) During the course of responding to an offense involving  
3 domestic violence, a peace [POLICE] officer shall orally and [OR] in  
4 writing inform the victim of services available to the victim and the  
5 rights of the victim, substantially as follows:

6 As a victim of domestic violence you should be aware of the follow-  
7 ing:

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

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

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

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

24 \* Sec. 13. AS 18.65.520(c) is amended to read:

25 (c) As used in this section

26 (1) "domestic violence" means a crime under AS 11.41 com-  
27 mitted when the victim is [AGAINST] a spouse or [,] a former spouse  
28 of the person who committed the crime, [OR] a member of the social unit  
29 comprised of those living together in the same dwelling as the person

1 who committed the crime, or another person related within the second  
2 degree by blood or marriage to the person who committed the crime;

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

7 \* Sec. 14. AS 22.20.130 is amended by adding a new subsection to read:

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

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

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

22 \* Sec. 16. AS 09.55.620(b) and AS 12.25.030(c) are repealed.  
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