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COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

POSITION PAPER

HB 562

"An Act relating to service of process in cases involving domestic violence."

The Council on Domestic Violence and Sexual Assault supports HB 562 "An Act relating to service of process in cases involving domestic violence."

The Council is concerned about the right of victims to be protected by a domestic violence restraining order as soon as possible. In communities that have police departments, local police officers are in the best position to respond quickly. If there are no peace officers in a municipality, this revision in the legislation enables the court to designate any other peace officer as the server. Thus state peace officers could concentrate on areas with no other police protection and respond in a more timely manner to their needs.



Jana Varrati
Vice-Chair
Council on Domestic Violence
and Sexual Assault



KENAI POLICE DEPT.

P.O. BOX 3173, KENAI, ALASKA 99611

TELEPHONE 283-7879

March 13, 1984

The Honorable Mike Miller
Chairman, Community & Regional Affairs
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

MAR 16 '84

Dear Representative,

Request that House Bill No. 562 be defeated. This is the bill relating to the service of domestic violence orders. This request is made for the following reasons:

- 1) At present all civil process is vested in the Commissioner of Public Safety. The Commissioner of Public Safety is the executive officer of all Alaskan Courts. This is a centralized system that has proven far more effective than in many states where this responsibility is dispersed among several agencies.
- 2) The Department of Public Safety presently has a judicial services section that performs the function of process service. This legislation would require that municipalities set up similar systems in order to carry out this function. This could result in a net increase in cost to the public.
- 3) As the subjects of these orders cross jurisdictional lines it would be necessary to transfer these orders from one agency to another. This builds in the possibility of error and time delays in service.

If lack of resources on the part of the Department of Public Safety is one of the primary reasons for this legislation, I would request that they be funded at a level sufficient to handle it. To change the present centralized system that has functioned well should only be done after careful consideration. It would seem ill-advised to do it on a piece meal manner.

Respectfully submitted,

Richard A. Ross
Chief of Police
Kenai Police Department
107 South Willow Street
Kenai, Alaska 99611

RAR/kdl



Alaska State Legislature

House of Representatives

Committee on Community & Regional Affairs

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-3870

TO: House Community and Regional Affairs Committee
FROM: House Community and Regional Affairs Committee
DATE: 3/13/84
SUBJ: HB562

As per the Chairman's instructions, staff contacted the Chief of Police of Anchorage, Fairbanks, Nome, Palmer, Valdez and Juneau.

At this time, Palmer and Fairbanks have sent the attached letters, one in support, the other with a no action recommendation.

Staff spoke to aide Ruth Rockwell of the Chief of Police Bob Kauer's staff in Nome. Ms. Rockwell stated that the Nome Police Department already aid the State Police in the serving of writs within Nome's perimeters. She felt no great impact would be felt and has no problem with this bill. She stated that it could clarify and ascertain jurisdiction within the city's boundaries and that in most cases, the local police would be more effective in getting the job done quickly and with a minimum of distress to the recipient as the local police were generally more familiar figures of authority than the state police.

Valdez Chief of Police Pat Shely's response to HB562 was that it was a good bill. For his size of community, he would prefer to have the control. He stated that generally his people were first on the scene, familiar with the people involved and the situation that had occurred. He felt the service of process gave his department a chance to follow up on the situation, to answer subject's questions concerning his rights, limitations and property and for the officer to offer to act as a mediator and arrange a convenient time for subject's personal articles to be removed from household.

Staff met with Chief of Police Joseph Ciraulo of Juneau. He offered to testify before the Committee if he was available at the time of the hearing. Staff is expecting him. However, he stated he believed that this bill would cost the city more money. Also, he believed that the state troopers has a special team and funding for this type of action. If bill was passed, he would use opportunity to gain another much needed staff position. He stated that already his department did step into help state police serve these writs. Also, it was up to the local department to enforce the writs. His personal feeling was that if

there was any way a civilian could handle this job, it would be better. The less a uniformed officer, whether they be state or city paid, was visible in these cases, the less likely the chance of more violence taking place.

Staff called the City of Anchorage; Chief of Police Brian Porter's office and Daniel Cowden with the Muni's Program Planning and Budget. Cowden said they would try to work out a probable fiscal note. The Chief's secretary said the Chief was in Juneau. Staff left messages at the meeting site and his hotel about the bill and asking for his position. No response has been forthcoming from either gentlemen. Staff did renotify Mr. Cowden and his statement was that he had notified the departments involved and they had not responded. This led him to believe that this bill was not a priority with the city.

All the above contacts said that they would send letters of back up but none have arrived so far except the two attached.

City of Valdez



POLICE DEPARTMENT
March 6, 1984

Representative Mike Miller
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

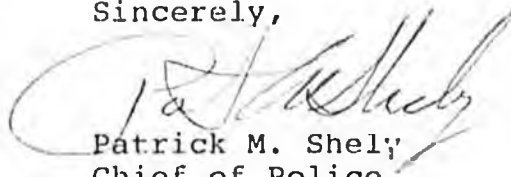
Re: House Bill No. 562
An Act relating to service of process in cases involving
domestic violence.

Dear Representative Miller:

I wish to express my support for this bill as I believe it would not only keep us informed of potential problems but also would allow us contact with the individuals in a non-arrest atmosphere. In this atmosphere an officer could offer services that could prevent future problems and officer risk. As an example, when papers are served there may be items in the residence such as clothes, tools, etc. that the person may need, but is restrained from getting. We could offer to stand by or to pick up the items for them. This process allows us to practice crime prevention which is preferable to being called to a crisis which does not allow us any alternatives and often is too late to prevent injury.

I believe this bill goes a long way in addressing domestic problems.

Sincerely,


Patrick M. Shely
Chief of Police

PMS:jmc



POLICE DEPARTMENT CITY OF FAIRBANKS

656 7TH AVENUE
FAIRBANKS, ALASKA 99701

907-452-1527



MATTHEW K. KIERNAN
CHIEF OF POLICE

March 2, 1984

Rep. Mike Miller
House Community & Regional Affairs
Pouch V
Juneau, AK 99811

Re: House Bill No. 562

Dear Rep. Miller:

Section 25.35.040 Service of Process as amended by House Bill No. 562, would place an extra costly burden upon the City of Fairbanks Police Department at a time when the Department is seeking ways of reducing budget dollars by eliminating unnecessary services by police officers.

During the previous year the Police Department has, with the assistance of the City of Fairbanks Attorney's office, instituted a procedure whereby all subpoena and criminal summonses are first served by Registered Mail. This procedure has resulted in a 60 to 80 per cent service record. Those not received are then served by a police officer or legal aid.

The City of Fairbanks Police Department is also supporting a State funded telecommunications link between the District Court and the State correctional facility in Fairbanks. This communications system is scheduled to be implemented during the summer of 1984, and will eliminate the majority of police officer escorted transports of prisoners from State Jail to Court for arraignment, thereby reducing the police officer man-hours necessary to accomplish this service.

The City of Fairbanks Police Department has also considered using civilian employees for the purpose of serving court processes in lieu of highly paid and trained police officers.

It is my recommendation that your committee take no action on House Bill 562. The State Troopers are funded and have the manpower for service of processes under AS 25.35.010 or AS 25.35.020. It will be my further recommendation that if the committee is looking at reducing the responsibility of highly trained police officers in serving processes from Superior and District Courts, that the committee look at amending the State statute to allow court officers to serve these processes.

March 2, 1984

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Rep. Mike Miller

Other law enforcement agencies have used civilian employees in handling domestic violence disputes with a high degree of success and with very little violence towards civilians. The civilian employee does not pose a threat to the parties involved as does the police officer having the authority to make arrests. Therefore, I am of the opinion that a civilian officer of the court could execute processes issued under AS 25.35.010 or 25.35.020 without any danger to his person.

The cost of training and equipping police officers to perform enforcement duties is done at considerable expense. I believe it is necessary to look at alternatives to using police officers outside of the job for which they have been trained. I would request that your committee give consideration to my recommendations when discussing House Bill No. 562.

Yours truly,



RICHARD L. CUMMINGS
Captain, Fairbanks Police Department

RLC:lnh

Palmer Police Department

POST OFFICE BOX 1368
PALMER, ALASKA 99645

PHONE: 745-4811

JOHN L. McKIBBEN
CHIEF OF POLICE

Mr. Mike Miller, Chairman
House Community Regional Affairs Committee
Pouch V
Juneau, Alaska 99811

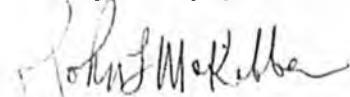
February 29, 1984

REF: House Bill 562, Service of Process in
Cases Involving Domestic Violence

I would like to take this opportunity to express my support for House Bill 562. It is my feeling that City Police departments should serve local domestic violence processes. As I am sure you and your committee are aware, these situations can be very touchy ones. In many small communities, the Police Officers would more than likely know the parties involved and have some insight into the best ways to approach them. I do not feel that this additional responsibility would place any undo strain on city departments.

If I can be of any assistance, or if you have any questions, please do not hesitate to contact me.

Very truly yours,



John L. McKibben
Chief of Police

JLM/lmcc

Alaska State Legislature



Room 104
State Capitol
Juneau, Alaska 99811

Pouch V
Juneau, Alaska 99811

House of Representatives Committee on Community & Regional Affairs

TO: MUNICIPAL AND LOCAL POLICE
DEPARTMENTS

FROM: HOUSE COMMUNITY & REGIONAL
AFFAIRS COMMITTEE

DATE: February 29, 1984

SUBJ: HB562 - relating to service of
process in cases involving
domestic violence.

This bill will be heard again within 10 days in the H
C&RA Committee. If you have a wish to testify or
present a position paper, please contact Shirley Dreas,
aide, HC&RA -
465-3870.

Thank you.

A handwritten signature in cursive script, appearing to be "sd".

DEPARTMENT OF PUBLIC SAFETY

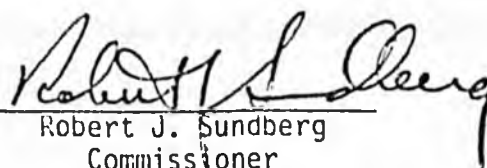
POSITION PAPER - HB 56?

Support

During the last two years the tremendous increase in the number of domestic violence orders to be served has placed a severe drain upon the manpower of the Alaska State Troopers and has caused some delay in the services of these orders. This legislation transfers the primary responsibility for the service of these injunctions from the State Troopers to local police departments. State Troopers would continue to serve these orders when local officers are not available.

Domestic violence injunctions are served by Troopers assigned to the Judicial Services section of the Alaska State Troopers. This section is also responsible for courtroom security, prisoner transportation and the service of subpoenas and warrants. The Alaska State Troopers have never received funding to cover the costs associated with the service of domestic violence orders. Thus this increased work load falls on an already overloaded unit and the service of these orders must sometimes be subordinated to other law enforcement demands.

The majority of domestic violence orders are served within the boundaries of political subdivisions which have their own police agencies. The local police are often more familiar with the locations and individuals involved in domestic violence situations and therefore can more safely and efficiently serve orders.


Robert J. Sundberg
Commissioner

REQUIRE THAT THE RESULTING COURT ORDER BE SERVED BY A STATE TROOPER WHOSE PRIMARY PATROL AREA IS OFTEN OUTSIDE OF THE CITY OR BOROUGH AND WHO HAS HAD NO PREVIOUS CONTACT WITH THE VICTIM OR THE CASE IS NOT AN EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, AND MAY CAUSE A DELAY IN THE SERVICE OF THE ORDER. IN THE LARGER CITIES, SERVICE OF THESE INJUNCTIONS IS MADE BY OFFICERS IN THE JUDICIAL SERVICES SECTION OF THE STATE TROOPERS. THE NEED TO ENSURE ADEQUATE SECURITY IN COURTROOMS, TRANSPORT PRISONERS, AND SERVE CRIMINAL ARREST WARRANTS AND SUBPOENAS SEVERELY LIMITS THE AMOUNT OF TIME AND EFFORT A JUDICIAL SERVICES OFFICER MAY DEVOTE TO SERVICE OF DOMESTIC VIOLENCE INJUNCTIONS.

IN THE INTERESTS OF PROVIDING THE QUICKEST AND BEST POSSIBLE PROTECTION FOR VICTIMS OF DOMESTIC VIOLENCE, AND OF MAKING THE WISEST POSSIBLE USE OF AVAILABLE LAW ENFORCEMENT RESOURCES, I URGE YOUR PROMPT PASSAGE OF THIS BILL.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801
(907)585-3650

POSITION PAPER

HB 562: An Act relating to service of process in cases involving domestic violence

The Alaska Network on Domestic Violence and Sexual Assault, representing 20 programs statewide that provide services to victims of domestic violence and sexual assault, supports HB562 which provides for service of process in cases involving domestic violence.

Some Network member programs, especially those in rural areas, have experienced difficulties in the service of Temporary Restraining Orders (TROs) under the current statute, which requires that a State peace officer serve and execute process. In communities where State Troopers are not permanently stationed this results in a delay in service and execution of the TRO. Allowing municipal peace officers and Village Public Safety Officers (VPSOs) to serve TROs would alleviate this problem.

The Network feels that timely service, whether by a VPSO, municipal peace officer, or State Trooper, is the critical issue. The purpose of securing a TRO is to protect the victim from further harm. The court is required to notify the appropriate law enforcement agency that an order has been issued, and law enforcement is charged with serving the order. If there is a delay in notification by the court or service by law enforcement, the purpose of securing the order is thwarted, and can result in further harm to the victim.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - HB 562

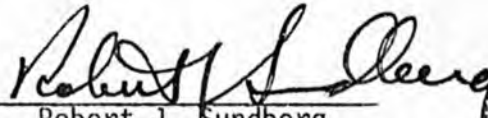
FEB 13 '84

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Robert J. Sundberg
Commissioner