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562

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 562  
 Title: "...domestic violence  
 injunctions..."  
 Sponsor: Rep. Liska  
 Requestor: House Community & RA  
 Date of Request: 2-7-84

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis No fiscal impact anticipated.

Prepared By: Francis C. Allan *F.C.A. MCIC* Phone: 269-5691  
 Division: Alaska State Troopers Date: 1-3-84  
 Approved by Commissioner: R. J. Sundberg *RJS* Date: 1-11-84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

12/1/83

# Alaska State Legislature

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Representative John J. Liska

March 28, 1984

## MEMORANDUM

TO: Judiciary Committee

FROM: Rep. John J. Liska

REFERENCE: HB 562, "An Act relating to service of process in cases involving domestic violence."

1. Copy of HB 562.
2. Copy of AS 22.20.110  
25.35.040  
25.35.010  
25.35.020
3. Description of the purpose of HB 562 and what it does.
4. Department of Public Safety Position paper.

JJL/tm

§ 22.20.100

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Miller v. Paul, Sup. Ct.  
No. 5064), 615 P.2d 615

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§ 22.20.110

JUDICIARY

§ 22.20.130

**Legislative history reports.** — For  
report on ch. 71, SLA 1972 (HCSSB 383  
am H), see 1972 House Journal, p. 898.

**Sec. 22.20.110. Duty of the commissioner in the court of appeals, the superior court and district courts.** When required by the supreme court, the commissioner shall serve and execute all process issued by the court of appeals, the superior court and the district courts, attend to and wait upon grand and petit juries, maintain order, attend the sessions of the courts, and exercise the power and perform the duties concerning all matters within the jurisdiction of the courts as may be assigned. The commissioner is the executive officer of the court of appeals, the superior court and district courts. (§ 3 ch 95 SLA 1960; am § 3 ch 24 SLA 1966; am § 17 ch 12 SLA 1980)

**Effect of amendments.** — The 1980 amendment inserted "the court of appeals" following "issued by" near the beginning of the section and following "executive officer of" near the end of the section.

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Sec. 22.20.120. General authority and duty of the commissioner.** The authority necessary for the lawful performance of the duties of execution of service of process, seizure and detention of property, the sale of property forfeited or levied upon, and arrest of persons, in connection with civil matters, is vested in the commissioner. Any court of the state issuing any process may direct the process for execution of service to the commissioner or the designee of the commissioner. (§ 4 ch 95 SLA 1960; am § 22 ch 71 SLA 1972)

**Editor's notes.** — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

**Legislative history reports.** — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

**Sec. 22.20.130. Assistance for commissioner.** (a) The commissioner shall be assisted in the execution of the authority and duty vested by AS 22.20.100 — 22.20.140 by such members of the division of state troopers or Alaska state constabulary as the commissioner designates. The commissioner is responsible on official bond for the acts of all persons so designated. The persons so designated have the same authority and duty granted to the commissioner and are subject to orders of the courts of the state in the same manner as the commissioner. They are responsible to the commissioner and to the courts, and shall be executive officers of the courts.

(b) The commissioner has the responsibility of providing sufficient personnel to effectively execute the authority and duty vested by AS 22.20.100 — 22.20.140, and shall adopt the necessary rules and regulations within his department for the efficient direction, control and

Revisor's notes. — Formerly AS 09.55.610. Renumbered in 1983.

Effect of amendments. — The 1982 amendment substituted "20 days" for "10

days" in the third sentence of subsection (c) and "three days" for "two days" near the beginning of subsection (e).

**Sec. 25.35.030. 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 25.35.010 or 25.35.020, including forms for waiving filing fees on the basis of indigency. The forms shall conform to the requirements of AS 25.35.010 and 25.35.020 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) *[Repealed, § 16 ch 61 SLA 1982.]* (§ 1 ch 139 SLA 1980; am § 16 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.620. Renumbered in 1983.

Cross references. — For related court rules on filing fees, see Admin. R. 9 (f)(1) and Admin. R. 10.

Effect of amendments. — The 1982 amendment repealed subsection (b), which read "The form for 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 and a \$5000 fine."

**Sec. 25.35.040. Service of process.** Process issued under AS 25.35.010 or 25.35.020 shall be promptly served and executed. If a state peace officer is not available, a superior court, district court, or magistrate may designate any other peace officer to serve and execute process issued under AS 25.35.010 or 25.35.020. A peace officer shall use every reasonable means to serve process issued under AS 25.35.010 or 25.35.020. (§ 7 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.625. Renumbered in 1983.

**Sec. 25.35.050. Notification to law enforcement agencies.** If a superior court, district court, or magistrate issues an order under AS 25.35.010 or 25.35.020 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 25.35.010 or 25.35.020. (§ 1 ch 139 SLA 1980)

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;

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

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

(c) An order issued under this section remains in effect for a period of time not to exceed 90 days. However, the petitioner may petition the superior court for an extension of a provision of the order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7), or (b)(8) 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 or a minor child in the care of 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. The court may not grant more than one extension under this subsection.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies. (§ 1 ch 139 SLA 1980; am §§ 3, 4 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.600. Renumbered in 1983.

Cross references. — For release before trial in cases involving domestic violence, see AS 12.30.025; for related provisions concerning criminal trespass, see AS 11.46.320 — 11.46.350; for related provisions concerning harassment, see AS 11.61.120(a)(6).

Effect of amendments. — The 1982 amendment added paragraphs (7) and (8)

to subsection (b), and in subsection (c), substituted "90 days" for "45 days" at the end of the first sentence, substituted "an extension" for "extensions" and "(b)(1), (b)(2), (b)(3), (b)(7) or (b)(8) of this section" for "(b)(1), (b)(2) or (b)(3) of this section" in the second sentence, inserted "or a minor child in the care of the petitioner" in the third sentence, and added the last sentence.

## DRAFT

THE BILL WILL TRANSFER PRIMARY RESPONSIBILITY FOR THE SERVICE OF PROCESS FOR DOMESTIC VIOLENCE INJUNCTIONS FROM THE STATE TROOPERS TO LOCAL POLICE DEPARTMENTS. CURRENT LAW PLACES PRIMARY RESPONSIBILITY FOR SERVICE OF THESE COURT ORDERS ON THE STATE TROOPERS, BUT PROVIDES THAT A COURT MAY ORDER ANY OTHER PLACE OFFICER TO SERVE THEM IF A STATE TROOPER IS NOT AVAILABLE. AS 25.35.040. THIS BILL WOULD REQUIRE LOCAL OFFICERS TO SERVE THE ORDERS IF THE PERSON TO BE SERVED IS PRESENT OR RESIDES WITHIN THE LOCAL DEPARTMENT'S JURISDICTION. IF A LOCAL OFFICER IS NOT AVAILABLE, THE COURT MAY DIRECT A STATE TROOPER TO SERVE THE COURT ORDER.

THIS CHANGE IN THE LAW IS NEEDED BECAUSE THE NUMBER OF DOMESTIC VIOLENCE ORDERS ISSUED BY COURTS EACH YEAR HAS INCREASED DRAMATICALLY SINCE AS 25.35.010 -- 25.35.060 (FORMERLY AS 09.55.600 -- 09.55.640) TOOK EFFECT IN SEPTEMBER OF 1980. IN ANCHORAGE ALONE, THE NUMBER OF DOMESTIC VIOLENCE ORDERS THAT MUST BE SERVED HAS CLIMBED FROM AN AVERAGE OF 15 TO AN AVERAGE OF 80 A MONTH. THE VAST MAJORITY OF THESE ORDERS (APPROXIMATELY 90 PERCENT) IS DIRECTED TO PERSONS WHO RESIDE WITHIN MUNICIPALITIES THAT HAVE LOCAL POLICE DEPARTMENTS.

IN MANY CASES, A LOCAL POLICE OFFICER WAS CALLED TO THE DOMESTIC DISTURBANCE WHICH GAVE RISE TO THE NEED TO OBTAIN A DOMESTIC VIOLENCE INJUNCTION. THE OFFICER MAY EVEN HAVE TRANSPORTED THE VICTIM OF THE ASSAULT TO THE LOCAL MAGISTRATE OR JUDGE TO OBTAIN THE ORDER. TO

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.

DEPARTMENT OF PUBLIC SAFETY

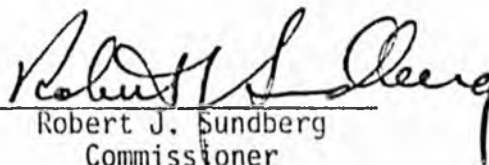
POSITION PAPER - HB 562

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