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Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 29

Sponsor: FAKS

Date referred to committee:

Synopsis completed: 1/10/85

Fiscal note:

Further referrals:

CONTACTS:

Barbara Miklós, Council Domestic Violence 4356

COMMITTEE REPORT  
SENATE

FURTHER: JUDICIARY

1/14/85

Date 1-31-85

Mr. President

The Committee on HESS considered SB 29  
relating to domestic violence.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt CS for SB 29
- new title
- same title and recommends \_\_\_\_\_
- and attached a "LETTER OF INTENT"  NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS

\_\_\_\_\_

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Richard S. ...

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Richard S. ...  
Chairman

Chairman recommendation

SB 29 RELATING TO DOMESTIC VIOLENCE (FAIKS)

RECEIVED HESS COMMITTEE APPROVAL JANUARY 31. YOU WERE A DO PASS.

THE BILL RECOGNIZES AS VICTIMS OF DOMESTIC VIOLENCE PARENTS, GRANDPARENTS AND CHILDREN REGARDLESS OF WHETHER THEY ARE COHABITING WITH THE ABUSER. (CURRENT STATUTE LIMITS DOMESTIC VIOLENCE REMEDIES TO SPOUSES, FORMER SPOUSES, MEMBERS OF A SOCIAL UNIT LIVING TOGETHER, AND PERSONS WHO PREVIOUSLY LIVED IN A SPOUSAL RELATIONSHIP.)

HESS C.S. MAKES THE DEFINITION OF DOMESTIC VIOLENCE CONSISTENT THROUGHOUT THE STATUTES, AND ALLOWS ALL OF THE ABOVE TO:

1. FILE PETITIONS FOR EMERGENCY INJUNCTIVE RELIEF.
2. OBTAIN SERVICES FROM THE COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT.
3. HAVE AN OFFENDER ARRESTED WITHOUT WARRANT.

JUDICIARY C.S. MAKES A TECHNICAL CHANGE (PAGE 2, LINE 2) THAT WE BROUGHT TO THE JUDICIARY COMMITTEE'S ATTENTION ONCE THE ATTORNEY BROUGHT IT TO OUR ATTENTION:

THE BILL STATES THAT A CHILD SEEKING INJUNCTIVE RELIEF MUST PETITION THE COURT THROUGH A PARENT OR GUARDIAN. JUDICIARY C.S. CLARIFIES THAT THIS IS THE PROCEDURE ONLY IN THE CASE OF A MINOR CHILD (SO 40-YEAR OLD CHILDREN AREN'T REQUIRED TO PETITION THROUGH A PARENT).

ZERO FISCAL NOTE.

Offered: 2/1/85  
Referred: Judiciary

Original sponsors: Faiks, Sturgulewski,  
Halford, et al

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 29 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH 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 12.25.030(b) is amended to read:

9 (b) In addition to the authority granted under (a) of this  
10 section, a peace officer without a warrant may arrest a person when  
11 the peace officer has reasonable cause for believing that the person  
12 has committed a crime under AS 11.41, AS 11.46.330, or AS 11.61.120  
13 when the victim is a spouse or former spouse of the person who commit-  
14 ted the crime; a parent, grandparent, or child of the person who  
15 committed the crime; [,] a member of the social unit comprised of  
16 those living together in the same dwelling as the person who committed  
17 the crime; [,] or another person who is not a spouse or former spouse  
18 of the person who committed the crime but who previously lived in a  
19 spousal relationship with the person who committed the crime.

20 \* Sec. 2. AS 18.66.900(3) is amended to read:

21 (3) "domestic violence" means a crime specified in AS 11.41  
22 when the victim is a spouse or a former spouse of the defendant; a  
23 parent, grandparent, or child of the defendant; [, OR] a member of the  
24 social unit comprised of those living together in the same dwelling as  
25 the defendant; or a person who is not a spouse or former spouse of the  
26 defendant but who previously lived in a spousal relationship with the  
27 defendant;

28 \* Sec. 3. AS 25.35.010(a) is amended to read:

29 (a) A person who is subjected to domestic violence may petition

2.7 prohibited - 5/11/5 9009

1 a superior court for injunctive relief restraining the infliction of  
2 further domestic violence against the petitioner by the respondent. A **minor**  
3 child seeking relief available under this chapter must petition the  
4 court by or through a parent, guardian, or legal custodian.

5 \* Sec. 4. AS 25.35.060 is amended to read:

6 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-  
7 lence" means a crime under AS 11.41 when the victim is a spouse or a  
8 former spouse of the respondent; a parent, grandparent, or child of  
9 the respondent; [,] a member of the social unit comprised of those  
10 living together in the same dwelling as the respondent; [,] or a  
11 person who is not a spouse or former spouse of the respondent but who  
12 previously lived in a spousal relationship with the respondent.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 29  
Title: Domestic Violence

Sponsor: Senator Faiks  
Requestor: SEN. HESS  
Date of Request: 1-11-85

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Administration of Justice  
BRU, Program or Subprogram(s) Affected: Council on Domestic Violence and Sexual Assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
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						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger  
Division: Administrative Services

Phone: 465-4338  
Date: 1-14-85

Approved by Commissioner: [Signature]  
Agency: Public Safety

Date: 1-14-85

Distribution (by Agency preparing fiscal note):

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

7/1/84

TO: BETTYE  
FROM: SANDRA

1/14/85

SB 29 DEFINITION OF DOMESTIC VIOLENCE

DEPT. HEALTH AND SOCIAL SERVICES RECEIVED STATUTORY AUTHORITY IN 1983 TO RECEIVE AND ACT ON REPORTS OF ELDER ABUSE. BILL PROVIDES PROTECTION FOR ABUSED ELDERS BY RECOGNIZING THEM IN DEFINITION OF DOMESTIC VIOLENCE.

ORIGINAL BILL AMENDS DEFINITION TO:

1. ENTITLE ELDERS TO FILE PETITIONS FOR EMERGENCY INJUNCTIVE RELIEF.

COMMITTEE SUBSTITUTE AMENDS TO:

2. ALLOW ARRESTS WITHOUT WARRANTS IN CASES OF ELDER ABUSE.
3. ALLOW COUNCIL ON DOMESTIC VIOLENCE TO ADDRESS CASES OF ELDER ABUSE.

(DEFINITION OF DOMESTIC VIOLENCE IS NOW CONSISTENT THROUGHOUT STATUTES.)

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(9) "person acting as parent" means a person, other than a parent, who has physical custody of a child and who has either been awarded custody by a court or claims a right to custody;

(10) "state" means any state, territory, or possession of the United States, the Commonwealth of Puerto Rico, and the District of Columbia. (§§ 1, 4 ch 61 SLA 1977)

NOTES TO DECISIONS

Applied in *Morgan v. Morgan*, Sup. Ct. Op. No. 2694 (File No. 7297), P.2d (1983). Cited in *Szmyd v. Szmyd*, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

**Sec. 25.30.910. Short title.** This chapter may be cited as the Uniform Child Custody Jurisdiction Act. (§ 1 ch 61 SLA 1977)

Chapter 35. Domestic Violence.

<b>Section</b>	<b>Section</b>
10. Injunctive relief in cases involving domestic violence	40. Service of process
20. Emergency injunctive relief in cases involving domestic violence	50. Notification to law enforcement agencies
30. Forms for filing petition	60. Definitions

**Cross references.** — For domestic violence police training, see AS 18.65.510; for notification to victims of domestic violence, see AS 18.65.520.

**Editor's notes.** — 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."

**Collateral references.** — 6 Am. Jur. 2d, Assault and Battery, §§ 44, 109, 177, 181. 41 Am. Jur. 2d, Husband and Wife, § 11. 42 Am. Jur. 2d, Injunctions, §§ 23-68, 69, 80, 81, 83, 94.

41 C.J.S., Husband and Wife, § 396. 43 C.J.S., Injunctions, §§ 22-25, 146, 147, 161, 166 et seq.

Admissibility of expert or opinion testimony on battered wife or battered woman syndrome, 18 ALR4th 1153.

**Sec. 25.35.010. 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;
- (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.

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**Sec. 25.35.020. 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 25.35.010(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 20 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 25.35.010 shall be scheduled by the superior court at the earliest possible time consistent with the notice provisions of AS 25.35.010. 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 three 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; am §§ 5, 6 ch 61 SLA 1982)

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).

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**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)

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**Sec. 25.35.060. Definitions.** In this chapter, "domestic violence" means a crime under AS 11.41 when the victim is a spouse or a former spouse of the respondent, a member of the social unit comprised of those living together in the same dwelling as the respondent, or a person who is not a spouse or former spouse of the respondent but who previously lived in a spousal relationship with the respondent. (§ 1 ch 139 SLA 1980; am § 8 ch 61 SLA 1982)

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

respondent" for "committed against a spouse, a former spouse, or" and added the language beginning "or a person who is not a spouse or former spouse" to the end.

Effect of amendments. — The 1982 amendment substituted "when the victim is a spouse or a former spouse of the

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**Chapter 25. Arrest.**

**Section**

- 10. Persons authorized to arrest
- 20. Judge or magistrate may order arrest
- 30. Grounds for arrest by private person or peace officer without warrant
- 33. Arrest without warrant for operating vehicle while intoxicated
- 35. Arrest without warrant by state trooper when judicial officer is unavailable
- 40. Taking before judge or magistrate person arrested by bystander
- 50. Method of making arrest
- 60. Method of arrest by officer without warrant
- 70. Limitation on restraint in arrest
- 90. Authority to summon aid to make arrest
- 100. Breaking into building or vessel to effect arrest

**Section**

- 110. Breaking open building or vessel to liberate
- 120. Retaking escaped prisoner
- 140. Property taken from defendant on arrest
- 150. Rights of prisoner after arrest
- 160. Arrest defined
- 180. When peace officer may issue citation or take person before the court
- 190. When person to be given five-day notice to appear in court
- 200. Form for citations
- 210. Disposition and records of citations
- 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)

**Collateral references.** — 5 Am. Jur. 2d, Arrest, §§ 3-51, 69-94; 21 Am. Jur. 2d, Criminal Law, §§ 411-420, 424-432; 68 Am. Jur. 2d, Searches and Seizures, § 1 et seq. 6A C.J.S. Arrest, §§ 10-42; 22 C.J.S. Criminal Law, §§ 144-146, 300-366.

**Sec. 12.25.020. Judge or magistrate may order arrest.** When a crime is committed in the presence of a judge or magistrate, the judge or magistrate 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 the court on a warrant of arrest. (§ 2.03 ch 34 SLA 1962; am § 7 ch 8 SLA 1971)

**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 the presence of the person making the arrest;
- (2) when the person has committed a felony, although not in the presence of the person making the arrest;
- (3) when a felony has in fact been committed, and the person making the arrest 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 the peace officer has reasonable cause for believing that the person has committed a crime under AS 11.41, AS 11.46.330, or AS 11.61.120

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(c) Repealed by § 16 ch 61 SLA 1982. (§ 2.04 ch 34 SLA 1962; am § 11 ch 166 SLA 1978; am § 33 ch 102 SLA 1980; am §§ 11, 16 ch 61 SLA 1982)

**Effect of amendments.** — The 1980 amendment substituted "fourth" for "third" in subsection (b).

The 1982 amendment substituted the language beginning "a crime under AS 11.41, AS 11.46.330, or AS 11.61.120" for "assault in the fourth degree under AS

11.41.230(a)(1) against a member of the person's household" at the end of subsection (b) and repealed subsection (c), which read "As used in this section 'household' means the social unit comprised of those living together in the same dwelling."

NOTES TO DECISIONS

**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 requirement. *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972).

**Validity of arrest.** — An arrest is lawful where the peace officer has perceived facts which would lead a reasonable man to believe that the arrestee has committed or attempted to commit an offense in his presence. *Miller v. State*, Sup. Ct. Op. No. 589 (File No. 986), 462 P.2d 421 (1969); *McCoy v. State*, Sup. Ct. Op. No. 750 (File No. 1316), 491 P.2d 127 (1971).

An arrest for a misdemeanor made by an officer without a warrant is valid if the offense is committed in his presence. *Miller v. State*, Sup. Ct. Op. No. 589 (File No. 986), 462 P.2d 421 (1969); *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972).

**Officer's presence essential for arrest of person for misdemeanor violation.** — Under this section a peace officer may not arrest a person for a misdemeanor violation unless the crime was actually committed or attempted in the officer's presence. *Layland v. State*,

Sup. Ct. Op. No. 1150 (File No. 2264), 535 P.2d 1043 (1975).

The Alaska legislature has classified both reckless driving and operating or driving an automobile under the influence of intoxicating liquor as misdemeanors. Thus, a state trooper who arrived at an accident scene could not arrest a driver without a warrant for either reckless driving or drunk driving since neither of these offenses was committed or attempted in his presence. *Layland v. State*, Sup. Ct. Op. No. 1150 (File No. 2264), 535 P.2d 1043 (1975).

Two elements are involved in the term "presence": (1) The officer must observe acts which are indicative of the commission of an offense; (2) The officer must be aware that he is in fact seeing an offense being committed. *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972).

**Presence requirement met by officer witnessing one segment of continuing offense.** — The presence requirement of this section may be met by the officer witnessing one segment of a continuing offense or of an offense that spans a considerable period of time. *Howes v. State*, Sup. Ct. Op. No. 846 (File No. 1443), 503 P.2d 1055 (1972).

**An officer may rely on information and observations reported by other officers helping in the investigation to establish probable cause for his belief that the arrestee has committed, or attempted**

file SB 29

MEMORANDUM

March 19, 1985

SUBJECT: One-subject requirement and germaneness  
(CSSB 29 (Jud))

TO: Senator Rick Halford

FROM: George W. Edwards  
Legislative Counsel

This is in response to your request for an analysis of any title, one-subject requirement, and germaneness problems created by your proposed amendment to the Committee Substitute for Senate Bill 29 (Jud).

Article II, section 13 of the Constitution of the State of Alaska requires that "the subject of each bill shall be expressed in the title." This requirement has been interpreted by the supreme court in State v. First National Bank of Anchorage, 660 P.2d 406, 415 (Ak, 1982) as intended "to prevent surreptitious introduction of legislation not indicated by the title."

While the proposed amendment does not present a one-subject requirement or germaneness problem, as will be discussed later, the title to CSSB 29 (Jud), "an act relating to domestic violence" should be expanded. In its original form the title may not be sufficiently broad to cover your amendment's particular attention to sexual offenses.

I believe the content of the bill as amended is accurately and completely described with the title "an act relating to domestic violence and domestic sexual offenses."

The one-subject requirement is also constitutionally mandated under Article II, section 13 which states that "every bill shall be confined to one subject." The supreme court has held that the purpose of this rule is to

. . . prevent the inclusion of incongruous and unrelated matter in the same bill in order to get the support

for it which the separate subjects might not separately command, and to guard against inadvertence, stealth, and fraud in legislation," Suber v. Alaska State Bond Committee, 414 P.2d 546, 557 (Ak, 1966).

More recently the court considered the subject in State v. First National Bank of Anchorage, supra, and held:

All that is necessary is that the act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be part of, or germane to, one general subject."

Germaneness is addressed in Rule 35 of the Uniform Rules of the Alaska State Legislature. It provides in part:

No motion or proposition on a subject shall be admitted under color of amendment if the subject matter is different from that under consideration. . . .

This is supplemented by Mason's Manual of Legislative Procedure which provides in Sec. 402:

Sec. 402. Amendments Must Be Germane

1. Every amendment proposed must be germane to the subject of the proposition or to the section or paragraph to be amended, and an amendment is not in order which is not germane to the question to be amended. This is, basically, a phrase of the rule that each proposition have but one subject and that members have the right to vote separately on each question.
2. To determine whether an amendment is germane, the question to be answered is whether the question is relevant, appropriate, and in a natural and logical sequence to the subject matter of the original proposal.
3. To be germane, the amendment is required only to relate to the same subject. It may entirely change the effect of the motion or measure and still be germane to the subject.

4. An entirely new proposal may be substituted by amendment so long as it is germane to the main purpose of the original proposal.
5. An amendment to an amendment must be germane to the subject of the amendment as well as to the main question.
6. No independent new question can be introduced under cover of an amendment. But an amendment may be in conflict with the spirit of the original motion, and still be germane and, therefore, in order.
7. The admissibility of an amendment should be judged from the provisions of the text, rather than from the purpose which circumstances may suggest.
8. Whether a proposed amendment is consistent with the measure, motion or question proposed to be amended, is a question to be decided by the body and not by the presiding officer.

The question of whether an amendment is germane is a parliamentary procedure question which must be raised by a member of the body or the point is waived. As stated in Rule 402(8) of Mason's Manual, if the question is raised it is a question to be decided by the body.

Domestic violence as considered in CSSB 29(Jud) concerns conduct declared to be offenses against the person under AS 11.41 that takes place between family members.

Section 1 of your proposed amendment concerns sexual offenses declared to be offenses against the person under AS 11.41.410 - 11.41.420 that take place between family members-spouses.

Section 2 of your proposed amendment concerns a subsection of AS 11.41.445 that is amended to delete a reference to AS 11.41.410 - 11.41.420. The remaining language pertains to offenses against the person under AS 11.41.434 - 11.41.440 that take place between family members-spouses. The statutory references deleted from this section concern crimes categorized as sexual assaults while those remaining concern crimes categorized as sexual abuse of a minor. A distinction between the two categories is that in the former nonconsent of a victim of any age is an essential element of

the crime while in the latter the crime can be completed even if an underage victim consents. This distinction is of no significance within the domestic violence framework exhibited in the original bill since "domestic violence" is defined in part in the bill as, "a crime within AS 11.41 when the victim is a spouse . . .".

Since both sections added by your amendment deal exclusively with AS 11.41 offenses involving spouses they concern domestic violence by definition and naturally and logically relate to the subject matter of the original bill. As such the amendment is, in my opinion, germane to and of one subject with the original bill.

The recommended title change does not concern germaneness or the one-subject requirement. It reflects a requirement implicit in law that a bill title be broad enough to provide notice of the bill's contents to any interested person. The title change suggested is intended to preempt any argument that "domestic violence" as used in the original bill pertains to conduct under AS 11.41 that does not conform to someone's definition of "violence" as requiring literal physical force. With the title extended to include "domestic sexual offenses", I believe the amended bill places persons who do not consider the crimes in question to involve violence on notice of the bill's contents.

GWE:ojb  
J13/008



Official Business

# Alaska State Legislature

*Senate*

*Committee on Finance*


JAN FAIKS  
CO-CHAIRMAN

Pouch V  
State Capitol  
Juneau, Alaska 99811

January 14, 1985

## MEMORANDUM

TO: Senator Bettye Fahrenkamp, Chairman  
Senate Health, Education and Social Services  
Committee

FROM: Senator Jan Faiks 

SUBJECT: Senate Bill 29 - An Act Relating to Domestic  
Violence

SB 29 enlarges the class of individuals that may seek relief under the domestic violence statutes to include parents, grandparents and children. Presently the domestic violence remedies are limited to spouses, former spouses, members of a social unit living together and persons who previously lived in a spousal relationship.

The importance of expanding this class is to allow persons who are often the victims of domestic violence an opportunity to file petitions for injunctive relief under AS 25.35.010 and emergency injunctive relief under AS 25.35.020. Both remedies greatly aid a victim against further infliction of domestic violence. Under both forms of injunctions, the court may issue any order it determines to be necessary for the protection of the the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner.

An injunction may include such provisions which:

restrain the respondent from subjecting the petitioner to domestic violence;

direct the respondent to vacate the home of the petitioner;

restrain the respondent from communicating directly or indirectly with the petitioner; or  
direct the respondent to pay medical expenses incurred by the petitioner as a result of the

domestic violence.

A Model State Act: Remedies for Domestic Violence advocates that the remedies created by law be made available to as broad a group of victims as possible.

In the comments to the Model Act, it is stated that:

Chronic violence occurs in many intimate relationships directed toward spouses, children, parents, lovers, siblings, and others. Often the violence continues and even escalates after a relationship is terminated. Patterns of violence may develop in relationships in which the parties are not and have never been cohabiting. Laws that fail to provide broad coverage might be interpreted as legislative condonation of violence in the excluded relationships.<sup>1</sup>

However, since temporary restraining orders, such as provided under AS 25.35.020, can be obtained on an expedited basis without normal requirements of notice to the perpetrator of the abuse, application should be carefully scrutinized. Because of this, the revisions advanced by SB 29 have been reviewed by those in the field and represent a satisfactory compromise which provides additional protection for victims of violence, primarily elders and children. While others outside of these classes may become victims of violence, the existing criminal assault statutes are available and provide protection through the arrest and prosecution of the perpetrator.

These revisions have been advocated by persons who work with victims of domestic violence. There has been an increase in elder abuse, and it is hoped that by including parents and grandparents that many older victims will be able to seek protection through petitioning the court for injunctions against further violence. Many cases of elder abuse occur between persons not living together and therefore are not presently covered under the statutes.

Last session a similar bill was introduced, SB 477. The following comments were submitted as part of position papers.

Council on Domestic Violence and Sexual Assault:

"Adding this section protects parents and grandparents who do not live with the perpetrator or by allowing . . . a restraining order to be issued for acts of violence committed against them. Incidences of violence have occurred between parents and adult children in which the parents are afraid for their safety and yet have little recourse to protect themselves if they do not live with the perpetrator. This change would allow them to get a domestic violence restraining order to protect themselves. . . . Although statistics on elder abuse in Alaska are not

complete because of the newness of the legislation that requires reporting, people from different communities have indicated there is a need to protect parents and grand parents, particularly when they are elderly. Murders in Bethel and Nome within the last six months substantiate this need."

Alaska Network on Domestic Violence and Sexual Assault:

"Last year, the Legislature gave the Department of Health and Social Services statutory authority to receive and act on reports of abuse of the elderly. Since the law's enactment in September 1983, 17 cases of elderly abuse have been reported to the Department's Division of Adult and Aging Services. The majority of those cases involved the infliction of physical abuse upon the elderly person by a son or other male family member. This information corresponds with information received from domestic violence programs, who report that cases of elderly abuse most often involve the physical abuse of an elderly parent or grandparent by that person's son or grandson, and involves cases in which the victim and perpetrator live separately."

Also, according to workers in the field, courts have questioned whether or not children were intended to come under the protection afforded victims of domestic violence. Children that live within the same dwelling as the perpetrator are covered under the present definition. However, those who are victimized by persons living outside of the home are not. With the inclusion of "child" under AS 25.35.060, there will be no question that children should be able to seek protection under that chapter. This inclusion allows abused children, often through guardians ad litem, to petition the court for a protective restraining order. An example of this type of abusive situation is where a child has been victimized by a parent that does not and never did live in the household and is in need of protection from further abuse.

FOOTNOTES

<sup>1</sup>Lerman, A Model State Act: Remedies for Domestic Abuse, 21 Harv. J. on Legis. 61 (1984), p.74.

MEMORANDUM

TO: SENATOR JAN FAIKS  
FROM: ELIZABETH J. HICKERSON  
SUBJECT: SB 29  
DATE: JANUARY 28, 1985

SB 29 expands the class of individuals who may seek relief under the domestic violence statute and Title 12, to include "parent, grandparent, and child of the respondent". Several items need to be reviewed prior to the hearing on January 31.

1. What people does this bill seek to protect? Answer: parents of the respondent, grandparents of the respondent and children of the respondent. Presently, all people living in the same dwelling with the respondent are provided protection under the domestic violence statute and Title 12. However, when elders and children, not living with the respondent, are abused by the respondent they are not technically able to petition the court for a protective order.

In the 3rd Judicial District, as a practical matter, when spouses or former spouses petition the court for a protective order, all members of the petitioners' household who have been subjected to the abuse are included in the order. It is unclear whether or not this is the uniform practice throughout the state. Because of this, it is felt that a uniform law is needed to provide protection for children and certain elders abused by, but living apart from the respondent.

CHILDREN. In addition, the Department of Law and the Court System have asked: Who should be able to petition the court on behalf of children? Answer: parents, guardians and legal custodians of the child. Without these restrictions, two potential abuses of the system exist: a juvenile who is upset with his/her parents may seek a protective order not based on substantial facts or another person, such as a neighbor, who disagrees with a family's discipline practices may seek a protective order. Both the juvenile and the other person may, under present law, report the harm to Family and Youth Services which will investigate the case and take appropriate action.

Therefore, SB 29 should be amended to include a sentence:

A child must petition the court for available relief under this chapter by or through a parent, guardian or legal custodian.

If the inclusion of children remains controversial following this amendment, the Council on Domestic Violence and Sexual Assault and the Network on Domestic Violence and Sexual Assault both suggest eliminating "child" from the bill. Both believe that providing protection for the elderly through court orders is the number one priority that SB 29 addresses. Last session a similar bill passed the Senate, but failed to pass the House.

ELDERS. In 1983, the legislature enacted AS 47.24, Protection of the Elderly. This chapter outlines procedures, including mandatory reporting and protective services, which must be followed for abused elders. Since the enactment of this law, reports of abused elders have increased statewide. Often the elders are abused by family members. If the elder is living in the same dwelling as the abuser, the elder may seek a protective order under the domestic violence statute. If the elder is living apart from the abuser, no such protective order is available.

During the interim the addition of "elder" was discussed with professionals. It was felt that since protective orders are extraordinary measures that the persons able to seek such relief should be limited. Therefore, SB 29 limits the class to "parents and grandparents" of the respondent. These are the most likely persons that need protection. Other abused elders may seek protection through the Department of Health and Social Services, or may report the incident to the local law enforcement agency.

SB 29 needs to specifically state "parents of the respondent and grandparents of the respondent" or should be accompanied by a letter of intent clarifying the fact that only parents and grandparents of the respondent are able to utilize the protective order procedures.

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

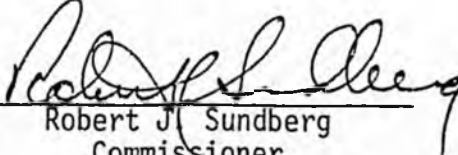
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SB 29

"An Act relating to domestic violence."

The Council on Domestic Violence and Sexual Assault supports SB 29 with the revision described below. Adding a parent, grandparent, or child of the respondent to AS 25.35.060 protects parents, grandparents and children who do not live with the perpetrators by allowing them to receive an injunctive relief order to restrain the infliction of further domestic violence against them. In order to be consistent with the statutes, this wording should also be added to AS 12.25.030(b) which permits warrantless arrests when there is reasonable cause for the peace officer to believe domestic violence has been committed.

Incidences of violence have occurred between parents and adult children in which the parents are afraid for their safety and yet have little recourse to protect themselves if they do not live with the perpetrator. Although statistics on elder abuse in Alaska are not complete because of the newness of the legislation that requires reporting, people from different communities have indicated there is a need to protect parents and grandparents, particularly when they are elderly. Adding this section also protects children who are not living with the perpetrator, but need to be protected from domestic violence directed toward them.

  
Robert J. Sundberg  
Commissioner  
Department of Public Safety

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

## POSITION PAPER

SB 29

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing 20 domestic violence and sexual assault programs state-wide, supports SB29 to change the definition of "domestic violence" in the existing statute.

Under current law, a person suffering abuse from a spouse of former spouse, a member of the "social unit" comprised of those living together with the abuser, or a person who is or has lived with the abuser in a spousal relationship can seek protection from further harm through means of a relief order.

This bill would provide that same protection to a parent, grandparent, or child of an abuser who is not living with that abusive individual. It is the Network's position that such a provision is necessary in order to protect parents and grandparents from abuse by their adult children or grandchildren, and to protect children who are not living with their parents.

Passage of this bill would enable those currently unprotected to seek and obtain a restraining order against the abusive individual and restrain the abuser from inflicting further harm.

The Network would suggest that, for purposes of consistency, this wording also be included in AS 12.25.030(b), which permits warrantless arrests when there is reasonable cause for a peace officer to believe that domestic violence has been committed.



Official Business

# Alaska State Legislature

Senate

Committee on

Health, Education & Social Services

Pouch V  
State Capitol  
Juneau, Alaska 99801

## MINUTES

January 17, 1985  
1:33 pm

Beltz Room  
Room 211, Capitol

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## MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Armstrong - De Vries  
Senator Paul Fischer  
Senator Josephson  
Senator Sturgulewski

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## CALENDAR

SB 27, Making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training program on the prevention, intervention, investigation and treatment of sexual and physical abuse of minors.

SB 28, Relating to training state employees on the prevention, recognition, intervention, and treatment of child abuse and neglect.

SB 29, Relating to domestic violence.

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SB 27  
SB 28  
SB 29

Senator Faiks, sponsor of the bills, explained that this legislation is a result of an interim review of existing domestic violence statutes and training programs. SB 27 and SB 28 would create training programs for community professionals and designated state employees. SB 29 would broaden the definition of domestic violence to provide services to additional victims. She spoke in support of the proposed committee substitutes and the letter of intent.

Dianne Le Resche, Department of Public Safety, Council on Domestic Violence, spoke in support of the bills and discussed the Council's statutory mandate to oversee and coordinate domestic violence and sexual assault programs.

January 17, 1985

Page 2

Cornie Sipe, Deputy Commissioner of Social Services  
Mike Price, Director, Division of Family and Youth  
Services, Department of Health and Social Services, supported SB 27  
and SB 28 in concept, but recommended that the Department of Health  
and Social Services be designated the lead agency. They reviewed  
the status of ongoing training programs and presented a proposed  
media package for a public education campaign.

Gail Horetski, Department of Law, Criminal Division, supported the  
bills and discussed the state's potential liability in undertaking  
training programs. She recommended amending SB 29 to specify that  
family members be related by "blood marriage or adoption".

Elizabeth Hickerson, Senate Advisory Council, spoke in support of  
retaining the Council on Domestic Violence as the lead agency and  
answered questions on all three bills.

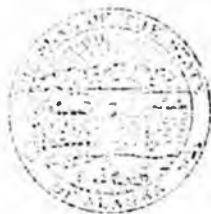
Carla Timpone, Alaska Network on Domestic Violence and Sexual  
Assault, spoke in support of retaining the Council as the lead  
agency and of the community based, team approach to training.

Senator Sturgulewski moved to adopt CS SB 28 (HESS) and CS SB 29  
(HESS). There was no objection.

The meeting adjourned at 3:20 pm.

# Alaska State Legislature

BETTYE FAHRENKAMP, Chairman  
ARLISS STURGULEWSKI, Vice Chairman  
JOE JOSEPHSON  
PAUL FISCHER  
EDNA ARMSTRONG-DE VRIES



POUCH V  
STATE CAPITAL  
JUNEAU, ALASKA 99811  
(907) 465-3834  
(907) 465-3835

## Senate Committee on Health, Education and Social Services

### MINUTES

January 31, 1985  
1:40 pm

Beltz Room  
Room 211, Capitol

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### MEMBERS PRESENT

Senator Fahrenkamp, Chairman  
Senator Armstrong - De Vries  
Senator Paul Fischer  
Senator Josephson  
Senator Sturgulewski

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### CALENDAR

SB 27, Making a special appropriation to the Department of Public Safety, Council on Domestic Violence and Sexual Assault, for a training program on the prevention, intervention, investigation and treatment of sexual and physical abuse of minors.

SB 28, Relating to training state employees on the recognition and reporting of child abuse and neglect.

SB 29, Relating to domestic violence.

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SB 27  
SB 28  
SB 29

Sandra Schubert, Aide to Senator Fahrenkamp, explained that after working with the Departments of Law, Health and Social Services, Public Safety, Education, and the bill's sponsor, a consensus had been reached on each bill. CS SB 28 (HESS) would give responsibility for training state employees to each department which employs persons required to report. CS SB 29 (HESS) would clarify that a child's petition for injunctive relief be filed by a parent, guardian or legal custodian.

Connie Sipe, Deputy Commissioner of Social Services, Department of Health and Social Services, explained how the added provision in CS SB 29 (HESS) would complement the existing "emergency custody" provisions in Title 47.

Senator Josephson moved SB 27 from committee with individual recommendations. There was no objection.

Senator Sturgulewski moved CS SB 28 (HESS) and a letter of intent for CS SB 28 (HESS) from committee with individual recommendations. There was no objection.

Senator DeVries moved CS SB 29 (HESS) from committee with individual recommendations. There was no objection.

The meeting adjourned at 1:55 pm.

STATE OF ALASKA  
THE LEGISLATURE

POUCHY STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 1, 1985

SUBJECT: CS Senate Bill 29

TO: Senator Bettye Fahrenkamp  
Chair Senate HESS Committee

FROM: Mike F. Ford *M. F.*  
Legislative Counsel

In reviewing CSSB 29 a question occurred concerning the use of the term "child" in section three. It appears that the term is meant to refer to those persons who are still under the supervision or control of a parent or guardian, and unable to represent themselves directly in court. Under present law, a person becomes an adult for purposes of bringing or defending a court action when they turn 18, however the relationship of parent/child continues into the adult years. The language used raises the possibility that adults who are seeking relief from domestic violence, as well as children, would be required to pursue court relief through a parent, guardian or legal custodian. The situation could perhaps be remedied by inserting the word "minor" in front of the word "child", as is done in AS 25.35.020(b)(1), concerning emergency injunctive relief.

MFF:ojb  
J11/049

# Municipality of Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4111

TONY KNOWLES.  
MAYOR

DEPARTMENT OF HEALTH AND ENVIRONMENTAL PROTECTION

November 14, 1984

Senator Jan Faiks  
1024 West 6th, Suite 202  
Anchorage, Alaska 99501

Dear Senator Faiks:

I received a copy of the suggested language change you have made for A.S.25.35.060. I am encouraged that you are supporting the inclusion of elderly abuse under the domestic violence statute. There are times when the use of an injunctive relief order (restraining order) might be more beneficial than criminal prosecution for all parties involved in cases of elder abuse.

In reviewing your proposed changes, I would like to suggest that the wording "intimate relationship" is too vague to describe in a court of law. Under the procedures of due process afforded the accused, the questioning needed to establish "intimate relationship" may do more to discourage than to assist the victim.

I would suggest the following definition (additions are underlined):

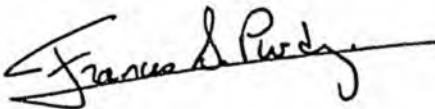
Sec. 25.35.060. Definitions. In this chapter, "domestic violence" means a crime under A.S.11.41 when the victim is a spouse or a former spouse of the respondent, a present or former member of the social unit comprised of those living together in the same dwelling as the respondent, or a person who is not a spouse or former spouse of the respondent but who previously lived in a spousal relationship with the respondent.

Senator Jan Faiks  
November 14, 1984  
Page 2

This definition includes child abuse and neglect, abuse by siblings, relatives who at one time lived in the same household, abuse by former spouses or "live-ins", abuse by siblings who have since grown up and moved out of the household, and persons who live together without benefit of marriage. The two categories of persons not included in this definition are 1) persons who have never lived in the same household and 2) persons who are merely dating. Both of these categories are better served by existing statutes of trespass, harassment, and assault. Any need for a restraining order is probably best met by the normal protection afforded by the criminal prosecution process.

I hope these comments are of help to you. I look forward to being of any further help to you.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Frances S. Purdy", with a long horizontal line extending to the right.

Frances S. Purdy, MEd ATR  
Abuse Prevention Program

FP2/ka/d2

# STATE OF ALASKA

SB 29

BILL SHEFFIELD, GOVERNOR

## PUBLIC DEFENDER AGENCY

November 23, 1984

900 W. 5th Avenue, Suite 200  
Anchorage, Alaska 99501  
Phone: (907) 279-7541

Senator Jan Faiks  
1024 West 6th  
Anchorage, Alaska 99501

Dear Senator Faiks:

Thank you for soliciting my input on your three draft bills. I believe Bills No. 1 and No. 2 are excellent and should aide professionals in recognizing signs of child abuse and neglect.

I do have some questions about Draft Bill No. 3. This bill expands the definition of domestic violence to include many persons not currently included in the definition. As I understand it, the domestic violence statute currently protects victims from abusers with the following relationship to the victim:

- 1) spouse
- 2) former spouse
- 3) member of the social unit living together with the victim
- 4) former spouse equivalent

The new definition would include more persons who may have only a tangential relationship to the victim.

- 1) spouse
- 2) former spouse
- 3) parent
- 4) child
- 5) any person related by blood (aunts, nephews, second cousins)
- 6) any person related by marriage (sister-in-law, spouse's cousin)
- 7) present household members
- 8) former household members (roomates from years ago)
- 9) persons with whom the victim has a child in common
- 10) persons who are currently in an "intimate relationship" with victim
- 11) persons who were in an "intimate relationship" with victim

The current definition of domestic violence focuses primarily upon persons who are living or have lived in the household with the victim. If one of those persons is abusive toward other

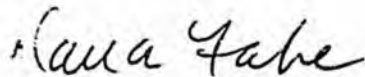
members of the household unit, that person can be kept away by temporary restraining order. These temporary restraining orders can be obtained on an expedited basis without normal requirements of notice to the perpetrator of the abuse. The new definition section proposed is quite broad and would allow a victim to obtain a restraining order against a large number of people who have no relationship to his/her household unit. For example, if a man has a fight with his wife's sister who is visiting from out-of-state and blows are exchanged, he could theoretically go to a judge and in a one-sided hearing obtain a temporary restraining order preventing her from visiting her sister's home and requiring her to pay for his medical expenses.

Certainly when an assault occurs between two people, whether they are distantly related by marriage or are strangers, the normal criminal assault statutes allow prosecution of the perpetrator. The domestic violence statute creates many unusual civil remedies which can be obtained without necessarily obtaining the presence of the person against whom the order is sought. These are extraordinary remedies and their application should be carefully limited.

I agree with the addition of parents, children and persons with whom the victim has a child to the definition of domestic violence since these are persons who may be quite reluctant to pursue normal criminal prosecutions and who may need immediate protection from abusive members of their households. I would eliminate from that definition "any other person related by blood or marriage", "former household member", and "person who is or has been in an intimate relationship" with the victim. It should be noted that "intimate relationship" may in any event be too vague a term to be included in a definition section.

These are my concerns regarding Draft Bill No. 3. Again, I appreciate being able to comment on this legislation prior to its submission. Please do not hesitate to contact me if I can be of any assistance to you.

Sincerely,



Dana Fabe  
Public Defender

DF:cms