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BILL FILE LOG

BILL # 29

3/11 FN for CSSB29 (HESS) Received

- Bill Summary
- Proposed amendment - all tasks

TO Testify - Margo Dick - AK Network  
- Lisa Nelson or Gayle  
Horetzki

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
	Marcy Peterson - wants to testify -
	586-7596

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

Senate Judiciary Committee, 1/17/85  
" " " 1/31/85

Original sponsors: Faiks, Sturgulewski,  
Halford, et al

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 CS FOR SENATE BILL NO. 29 (Judiciary)

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

1 a superior court for injunctive relief restraining the infliction of  
2 further domestic violence against the petitioner by the respondent. A  
3 minor child seeking relief available under this chapter must petition  
4 the 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.  
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Official Business

# Alaska State Legislature

## Senate Finance Committee

Pouch V  
State Capitol  
Juneau, Alaska 99811

JAN FAIKS  
CO-CHAIRMAN

February 22, 1985

### MEMORANDUM

TO: Senator Pat Rodey

FROM: Senator Jan Faiks

SUBJECT: Hearings and proposed amendment to SB 29

Please schedule hearings before the Judiciary Committee on Senate Bill 29, an act relating to domestic violence.

Also, I would appreciate your Committee's considering an amendment to this bill which would add the word "minor" before the word "child" in Section 3 of the Committee Substitute from the Health, Education, and Social Services Committee.

This amendment will clarify my intent that the restrictions on who may bring a petition on behalf of a child are limited only to the situation of a minor child needing relief. This oversight in drafting was brought to my attention by a memo from the Legislative Counsel. I am enclosing his memo because it explains the problem with the current wording in Section 3. Thank you.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

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  
Jil/049



Official Business

# Alaska State Legislature

*Senate*

*Committee on Finance*

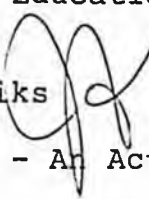
JAN FAIKS  
CO-CHAIRMAN

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.

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

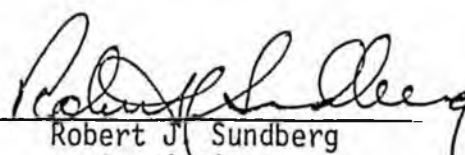
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SB 29

"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

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
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338  
 Division: Administrative Services Date: 1-14-85

Approved by Commissioner: *[Signature]* Date: 1-14-85  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

# 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 or 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.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CSSB 29 (HESS)  
Title: Domestic Violence

Sponsor: Senate HESS  
Requestor: Sen. Judiciary  
Date of Request: 3/11/85

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Administration of Justice

BRU, Program or Subprogram(s) Affected: Council on Domestic Violence & Sexual Assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

<b>GENERAL FUND</b>						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Paul Conger Phone: 465-4338  
Division: Administrative Services Date: 3/11/85

Approved by Commissioner: [Signature] Date: 3-11-85  
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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- Impacted Agency(ies)

7/1/84