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HOUSE COMMITTEE REPORT

(7)

Date Referred: March 29, 1990

FURTHER REFERRALS:

Date of Committee Action: ~~March 29, 1990~~

The JUDICIARY Committee considered:

SB 423

SENATE BILL NO. 423

ASSAULT IN VIOLATION OF RESTRAINING ORDER

"An Act relating to misconduct involving possession of a weapon by a person who is in violation of a domestic violence restraining order."

RECOMMENDATIONS:

- be replaced with HCS SB 423 (JUD) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) _____
- zero fiscal note(s) Pub. Safety 3/6/90
- zero fn/analysis Corrections 3/23/90

SIGNING DO PASS:

SIGNING:
(Check approp. column)

Do Not
Pass No Rec Amend

Peter Goll Goll.
Michael Davis DAVIS
Ellis Ellis
W. Gruenberg Gruenberg

<u>Davidson</u> Davidson	↓		
<u>Terry Martin</u> Martin	←		

Peter Goll / W. Gruenberg
Chairman's Signature

ANCHORAGE TASK FORCE ON SEXUAL ASSAULT

HJD
Bill
File

c/o Abuse Prevention Program, Municipality of Anchorage, P.O.
Box 196650, Anchorage, AK 99519-6650, Tele. 343-4876

April 9, 1990

House of Representatives
Judiciary Committee
P.O. Box V
Juneau, AK 99811

Dear Representative Peter Goll; Co-Chair
Representative Max Gruenberg; Co-Chair
Representative Mike Davis; Vice-Chair
Representative Cliff Davidson;
Representative Johnny Ellis;
Representative Terry Martin;
Representative Mike Miller:

RE: Letter of support for SB 423

The Anchorage Task Force on Sexual Assault (ATFSA) is comprised of over forty representatives from the State Departments' of Law, Corrections, Health and Social Services, local hospitals (Humana Hospital, Providence Hospital, and the Alaska Native Medical Center), the Anchorage Police Department, local crisis centers, the Municipal Health and Human Services Department, and interested professionals. The purpose of the ATFSA is to heighten community awareness, enhance inter-agency communication and cooperation, sensitize and improve systems affecting victims, and advocate for positive policies which affect victims and their families.

The ATFSA strongly supports SB 423 and urges the expeditious passage of the bill from the Judiciary Committee. SB 423 is an act relating to misconduct involving possession of a weapon by a person who is in violation of a domestic violence restraining order. The ATFSA is interested in this bill since many domestic violence victims are also sexually assaulted by the batterer. Recent studies show that approximately 37% of battered women have been sexually violated by their partners.

The bill speaks to the limitations of the arrest and apprehension of individuals acting in violation of their temporary restraining order and to the avoidance of lethal situations. Passage of SB 423 would expand arrest capabilities to include instances where the violator, of a domestic restraining order, enters or remains in the home or in a motor vehicle, and, or during the violation carries a deadly weapon. The bill also includes situations where the violator communicates with the plaintiff, in violation of the restraining order, and possess a deadly weapon.

The bill is especially important in light of research relating to the use of weapons and lethal incidents reported in domestic violence cases. According to the U.S. Department of Justice, Federal Bureau of Investigation, data indicates that 30% of female homicide victims are killed by their husbands or boyfriends. In a 1971 study conducted in Kansas City, police had been called previously at least five times in 50% of all homicides by one spouse of another within a two-year period before the homicide occurred. In 55% of the cases, the police had been summoned at least once.

Additional research suggests that spousal abuse results in more injuries that require medical treatment than rape, auto accidents, and muggings combined.

An in-depth case study of domestic violence in the Anchorage area reports that approximately 12% of the domestic violence victims experienced injury by weapons or objects. Approximately 9% of the victims were threatened with a knife, gun or other dangerous object.

Early data for 1989 suggest that an average of 218 domestic violence incidents were reported to the Anchorage Police Department. According to the U.S. Department of Justice, Bureau of Justice, wife assault is underreported by a factor of at least 10 to 1. Based on this information, an estimate of the actual occurrences of domestic violence in Anchorage could be as high as 2,180 incidents.

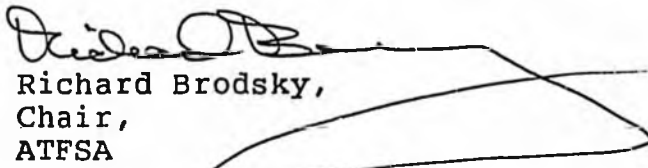
National research findings indicate that arrest is the most effective method of police intervention, more effective than attempting to counsel both parties or sending the assailant away from the home for a few hours. For example, the city of Newport News, Virginia, witnessed a decline in their domestic violence homicide rate (from 9 in 1984 to 0 in 1987) since they implemented a pro-arrest policy.

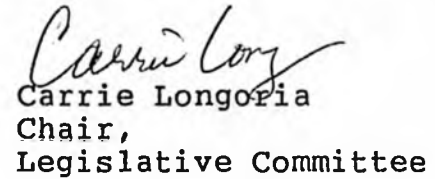
ATFSA
Letter of Support for SB 423
page 3

Police are often the primary source of intervention in domestic violence cases. The benefits in instituting broad pro-arrest laws reach beyond the goal of reducing domestic violence incidents. It is often the beginning for some victims to regain self-confidence and seek help. The victim sees herself as a victim of a crime, not as an "unfit" wife.

Through police intervention, society sends a powerful message. By passing SB 423, the Legislature is making a powerful statement--domestic violence is intolerable and there will be intervention.

Sincerely,


Richard Brodsky,
Chair,
ATFSA


Carrie Longoria
Chair,
Legislative Committee

#246/CDL

TELECOPY COVER SHEET

ANCHORAGE POLICE DEPARTMENT

4501 S. Bragaw Street

Anchorage, Alaska 99507-1599

Telephone: 786-8500 Fax Number: 563-0785

TELECOPY TO: Detstar Pease FAX NO. 465-3887

FROM: Shirley Warner NUMBER OF PAGES: 5

COMMENTS: Position Paper 5B423

SENT: DATE _____ TIME _____

RECEIVED: DATE _____ TIME _____

THE ANCHORAGE DOMESTIC VIOLENCE COMMITTEE

March 30, 1990

The Honorable Paul Fischer
Alaska State Senate
Pouch V
Juneau, Alaska 99688

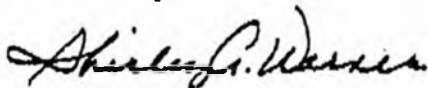
Dear Senator Fischer,

Attached is the position paper of the Anchorage Domestic Violence Committee regarding Senate Bill 423, possession of a dangerous weapon during the violation of a domestic violence writ. As you had requested of me while I was in Juneau in February I am sending this original to you for proper dissemination to other involved Legislators.

I really appreciate your assistance on this bill. I anticipate that this strong statement to violators of domestic violence writs will be very effective, and will reduce threat of injury to domestic violence victims.

If there is any more I can do to promote and insure the passage of this bill please do not hesitate to call. Thank you.

Sincerely,



Shirley A. Warner
Chairperson for the
Anchorage Domestic Violence Committee
President of the Alaska Peace
Officers Association
786-8851

POSITION PAPER

Domestic Violence Committee
4501 S. Bragaw Street
Anchorage, Alaska 99507-1599

February 26, 1990

RE: Support for Senate Bill 423: An act relating to misconduct involving possession of a weapon by a person who is in violation of a domestic violence restraining order.

The Domestic Violence Committee strongly urges you to pass SB 423. Our Committee was formed in June 1988 for the purpose of discussing, clarifying, and revising any areas of concern regarding domestic violence. We represent a variety of governmental agencies who deal with domestic violence on a daily basis. 20 to 30 people are in attendance at each quarterly meeting to deal with significant issues.

The goal of the Committee is to insure optimum protection for victims of domestic violence through an expedient and efficient procedure for dealing with violators.

We feel this bill will further our success in dealing with this most volatile crime. Currently when an officer responds to the scene of a violation of a domestic violence writ, and the respondent is in possession of a deadly weapon, the most the officer is able to do is place the person under arrest for a misdemeanor.

Research has shown, and current cases within the State have proven, that the likelihood of felonious assault and murder is greater if the violator is in possession of a deadly weapon.

The Committee feels the ideal would be that the respondent is warned via the writ that if he/she violates the writ, and is in possession of a deadly weapon, he/she shall be arrested for a felony. It is our hope that this addition would act as further deterrence in the injury and death of innocent people. In the event the respondent does not pay heed to this warning three things will occur: 1) an officer has the authority to arrest the respondent for a felony; 2) more time is allowed to pass providing for a "cooling off period"; 3) the respondent will become very aware of the seriousness of the crime and he/she will know the State is serious about this crime.

The following information should prove useful in your discussion with anyone who may oppose this worthwhile step in furthering the protection of victims of domestic violence.

From the National Women Abuse Prevention Project:

- * When battered women are killed by their abusers, it frequently occurs after they have been separated from them or taken other action to end the relationships.
- * FBI data indicate that 30% of female homicide victims are killed by their husbands or boyfriends. This translates into the death of four women per day at the hands of male partners.
- * An in-depth study of all one-on-one murder and non-negligent manslaughter cases from 1980-84 found that more than one-half (52%) of female victims were killed by male partners.
- * 40% of women seeking shelter services in Texas were abused with weapons.
- * Research suggests that spousal abuse results in more injuries that require medical treatment than rape, auto accidents, and muggings combined.

From Men Who Batter: An Integrated Approach for Stopping Wife Abuse, Edward W. Gondolf, Learning Publications, 1989:

- * In a study of domestic violence and the police in Kansas City, Missouri, it was found that police had responded to disturbance calls, at the address of homicide victims at least once in the two years before the homicide in 90% of the cases, and five or more times in 50% of the cases.

From the Statistical Study of Domestic Violence Cases: 1986-1988, in Anchorage:

- * Approximately 12% of the domestic violence victims experienced injury by weapons or objects.
- * Approximately 9% of the domestic violence victims were threatened with a knife, gun or other dangerous object.

If you have any questions, or if any member of this committee can assist in any way to insure the expeditious passage of this legislation, please call. Thank you.

Sincerely,

Shirley A. Warner

Lt. Shirley A. Warner
Chair, Domestic Violence Committee
Anchorage Police Department
786-8851

Nancy Scheetz-Freymler

Nancy Scheetz-Freymler
Executive Director
Abused Women's Aid in Crisis
272-0100

Carrie Longoria

Carrie Longoria
Director, Abuse Prevention Program
Municipality of Anchorage
343-4876

Gary Apperson

Sgt. Gary Apperson
Patrol Division
Anchorage Police Department
786-8500

James F. Wolf

James F. Wolf
Municipal Prosecutor
Municipality of Anchorage
343-4250

Cheryl Mann

Cheryl Mann
Executive Director
Alaska Women's Resource Center
276-0528

Doug Stowers

Sgt. Doug Stowers
Warrant Section
Anchorage Police Department
343-4198

Michael A. Grimes

Sgt. Michael A. Grimes
Violent Crimes Unit
Anchorage Police Department
786-8807

Dennis Casanovas

1st Sgt. Dennis Casanovas
Patrol Division
Alaska State Troopers
269-5511

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Department of Corrections
 Title: "Misconduct involving weapon... in violation of domestic restraining order." BRU: _____
 Sponsor: Senator Pearce. et. al. Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-	-	-	-	-	-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

While it is clear that some fiscal impact will occur due to offenders serving time under a felony versus a misdemeanor, there is no data available through Department of Public Safety, Department of Law or Department of Corrections to accurately predict what the impact will be.

Prepared by: Susan E. Knighton, Director Phone: 465-3376
 Division: Administrative Services Date: 03/22/90

Approved by Commissioner: S. Thompson-Baswell Date: 03/22/90
 Agency: Department of Corrections

Distribution (by preparer):

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

BY SEN. PEARCE, Sturgulewski, Coghill, Binkley, Eliason, Jones, Faiks

1 IN THE SENATE

2

SENATE BILL NO. 423

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6

For an Act entitled: "An Act relating to misconduct involving possession
of a weapon by a person who is in violation of a
domestic violence restraining order."

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

10

* Section 1. AS 11.61.200(a) is amended to read:

11

(a) A person commits the crime of misconduct involving weapons
in the first degree if the person

12

13

(1) knowingly possesses a firearm capable of being con-
cealed on one's person after having been convicted of a felony by a
court of this state, a court of the United States, or a court of
another state or territory;

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(2) knowingly sells or transfers a firearm capable of being
concealed on one's person to a person who has been convicted of a
felony by a court of this state, a court of the United States, or a
court of another state or territory;

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(3) manufactures, possesses, transports, sells, or trans-
fers a prohibited weapon;

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(4) knowingly sells or transfers a firearm to another whose
physical or mental condition is substantially impaired as a result of
the introduction of an intoxicating liquor or drug into that other
person's body;

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(5) removes, covers, alters, or destroys the manufacturer's
serial number on a firearm with intent to render the firearm untrace-
able; [OR]

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29

1 (6) possesses a firearm on which the manufacturer's serial
2 number has been removed, covered, altered, or destroyed, knowing that
3 the serial number has been removed, covered, altered, or destroyed
4 with the intent of rendering the firearm untraceable;

5 (7) violates AS 11.46.320 or 11.46.330 by entering or
6 remaining unlawfully on premises or in a propelled vehicle in viola-
7 tion of a provision of an order issued under AS 25.35.010(b) or 25.-
8 35.020 and, during the violation, possesses on the person a deadly
9 weapon; or

10 (8) communicates in person with another in violation of
11 AS 11.61.120(a)(6) and, during the communication, possesses on the
12 person a deadly weapon.

Original sponsor(s): SEN. PEARCE, Sturgulewski, Coghill, Binkley, Eliason, Jones, Faiks, Uehling; REP. Hanley

1 IN THE SENATE

BY THE JUDICIARY COMMITTEE

2 HOUSE CS FOR SENATE BILL NO. 423 (Judiciary)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to misconduct involving possession
7 of a weapon by a person who is in violation of a
8 domestic violence restraining order."

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

10 * Section 1. AS 11.61.200(a) is amended to read:

11 (a) A person commits the crime of misconduct involving weapons
12 in the first degree if the person

13 (1) knowingly possesses a firearm capable of being con-
14 cealed on one's person after having been convicted of a felony by a
15 court of this state, a court of the United States, or a court of
16 another state or territory;

17 (2) knowingly sells or transfers a firearm capable of being
18 concealed on one's person to a person who has been convicted of a
19 felony by a court of this state, a court of the United States, or a
20 court of another state or territory;

21 (3) manufactures, possesses, transports, sells, or trans-
22 fers a prohibited weapon;

23 (4) knowingly sells or transfers a firearm to another whose
24 physical or mental condition is substantially impaired as a result of
25 the introduction of an intoxicating liquor or drug into that other
26 person's body;

27 (5) removes, covers, alters, or destroys the manufacturer's
28 serial number on a firearm with intent to render the firearm untrace-
29 able; [OR]

1 (6) possesses a firearm on which the manufacturer's serial
2 number has been removed, covered, altered, or destroyed, knowing that
3 the serial number has been removed, covered, altered, or destroyed
4 with the intent of rendering the firearm untraceable;

5 (7) violates AS 11.46.320 or 11.46.330 by entering or
6 remaining unlawfully on premises or in a propelled vehicle in viola-
7 tion of a provision of an order issued under AS 25.35.010(b) or 25.-
8 35.020 and, during the violation, possesses on the person a deadly
9 weapon, other than an ordinary pocketknife; or

10 (8) communicates in person with another in violation of
11 AS 11.61.120(a)(6) and, during the communication, possesses on the
12 person a deadly weapon, other than an ordinary pocketknife.