

HB 44

## HOUSE BILL NO. 44

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES ULMER, Parnell, B.Davis

Introduced: 1/21/91

Referred: Health, Education and Social Services, Judiciary, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to domestic violence."

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

3 \* Section 1. AS 11.61.120(a) is amended to read:

4 (a) A person commits the crime of harassment if

5 (1) [,] with intent to harass or annoy another person, that person6 (A) [(1)] insults, taunts, or challenges another person in a manner likely  
7 to provoke an immediate violent response;8 (B) [(2)] telephones another and fails to terminate the connection with  
9 intent to impair the ability of that person to place or receive telephone calls;10 (C) [(3)] makes repeated telephone calls at extremely inconvenient hours;11 (D) [(4)] makes an anonymous or obscene telephone call or a telephone  
12 call that threatens physical injury; or13 (E) [(5)] subjects another person to offensive physical contact; or14 (2) that person knowingly [(6)] violates a provision of an order issued under

1 AS 25.35.010(b) or 25.35.020 restraining the respondent from communicating directly or  
2 indirectly with the petitioner.

3 \* Sec. 2. AS 11.61.200(a) is amended to read:

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

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

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

12 (3) manufactures, possesses, transports, sells, or transfers a prohibited weapon;

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

16 (5) removes, covers, alters, or destroys the manufacturer's serial number on a  
17 firearm with intent to render the firearm untraceable;

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

21 (7) violates AS 11.46.320 and, during the violation, possesses on the person a  
22 firearm while under the influence of an intoxicating liquor or drug;

23 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on  
24 premises or in a propelled vehicle in violation of a provision of an order issued under  
25 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a deadly  
26 weapon, other than an ordinary pocketknife; or

27 (9) communicates in person with another in violation of AS 11.61.120(a)(2)  
28 [AS 11.61.120(a)(6)] and, during the communication, possesses on the person a deadly weapon,  
29 other than an ordinary pocketknife.

30 \* Sec. 3. AS 12.30.025 is amended to read:

31 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING DOMESTIC

1 VIOLENCE. (a) In determining the conditions of release under AS 12.30.020 in cases involving  
2 domestic violence, the court shall consider the following conditions and impose one or more  
3 conditions it considers reasonably necessary to protect the alleged victim of the domestic  
4 violence, including ordering the defendant

5 (1) not to subject the victim to further domestic violence;

6 (2) to vacate the home of the victim;

7 (3) not to contact the victim other than through counsel;

8 (4) to engage in personal [OR FAMILY] counseling; if the court directs the  
9 defendant to engage in personal counseling, the court shall provide in the order that the  
10 counseling must propose alternatives to aggression if that type of counseling is available;

11 (5) to refrain from the consumption of alcohol or the use of drugs.

12 (b) As used in this section, "domestic violence" means a crime specified in AS 11.41  
13 when the victim is a spouse or a former spouse of the defendant; a parent, grandparent, child,  
14 or grandchild of the defendant; [,] a member of the social unit comprised of those living  
15 together in the same dwelling as the defendant; [,] or a person who is not a spouse or former  
16 spouse of the defendant but who previously lived in a spousal relationship with the defendant or  
17 is in or has been in a dating, courtship, or engagement relationship with the defendant.

18 \* Sec. 4. AS 12.55.135(c) is amended to read:

19 (c) A defendant convicted of assault in the fourth degree committed in violation of the  
20 provisions of an order issued under AS 25.35.010 or 25.35.020 shall be sentenced to a minimum  
21 term of imprisonment of 20 days. Except as otherwise provided in this subsection, the court  
22 shall impose a minimum sentence of imprisonment of not less than 72 consecutive hours for  
23 a misdemeanor conviction involving domestic violence if the defendant has been previously  
24 convicted of a misdemeanor or felony involving domestic violence. In this subsection,  
25 "previously convicted" means having been convicted in this or another jurisdiction, within  
26 10 years preceding the date of the present offense, of

27 (1) a domestic violence offense; or

28 (2) an offense under another law or ordinance with elements substantially  
29 similar to the elements of a crime under AS 11.41 when the victim was a person described  
30 in the definition of "domestic violence" given in AS 25.35.060.

31 \* Sec. 5. AS 12.55.155(d) is amended by adding a new paragraph to read:

1 (17) in a conviction for assault or attempted assault under AS 11.41.200 -  
2 11.41.220 or for homicide or attempted homicide under AS 11.41.100 - 11.41.130, the defendant  
3 acted in response to domestic violence perpetrated by the victim against the defendant or a minor  
4 child of the defendant and the domestic violence consisted of aggravated or repeated instances  
5 of assaultive behavior.

6 \* Sec. 6. AS 12.55.185 is amended by adding a new paragraph to read:

7 (12) "domestic violence" has the meaning given in AS 25.35.060.

8 \* Sec. 7. AS 18.65.520(c)(1) is amended to read:

9 (c) As used in this section

10 (1) "domestic violence" means a crime under AS 11.41 when the victim is a  
11 spouse or a former spouse of the person who committed the crime; a parent, grandparent,  
12 child, or grandchild of the person who committed the crime; [,] a member of the social unit  
13 comprised of those living together in the same dwelling as the person who committed the crime;  
14 [,] or another person who is not a spouse or former spouse of the person who committed the  
15 crime but who previously lived in a spousal relationship with the person who committed the  
16 crime or is in or has been in a dating, courtship, or engagement relationship with the person  
17 who committed the crime;

18 \* Sec. 8. AS 18.66.900(3) is amended to read:

19 (3) "domestic violence" means a crime specified in AS 11.41 when the victim is  
20 a spouse or a former spouse of the defendant; a parent, grandparent, child, or grandchild of the  
21 defendant; a member of the social unit comprised of those living together in the same dwelling  
22 as the defendant; or a person who is not a spouse or former spouse of the defendant but who  
23 previously lived in a spousal relationship with the defendant or is in or has been in a dating,  
24 courtship, or engagement relationship with the defendant;

25 \* Sec. 9. AS 25.35.010(b) is amended to read:

26 (b) Upon receiving a petition under (a) of this section, the court shall schedule a hearing  
27 and shall provide at least 10 days' [DAYS] notice to the respondent of the hearing and of the  
28 respondent's right to appear and to be heard either in person or by attorney. If, at the hearing,  
29 the court finds that the petitioner has been subjected to domestic violence by the respondent, the  
30 court may issue any order it determines to be necessary for the protection of the health, safety,  
31 or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this

1 subsection may include provisions that

- 2 (1) restrain the respondent from subjecting the petitioner to domestic violence;
- 3 (2) direct the respondent to vacate the home of the petitioner;
- 4 (3) restrain the respondent from communicating directly or indirectly with the
- 5 petitioner;
- 6 (4) direct the respondent to pay support for the petitioner or for a minor child in
- 7 the care of the petitioner if there is an independent legal obligation of the respondent to support
- 8 the petitioner or the child;
- 9 (5) award temporary custody of a minor child to the petitioner;
- 10 (6) direct the respondent to pay medical expenses incurred by the petitioner as
- 11 a result of the domestic violence;
- 12 (7) direct the respondent to engage in personal counseling; if the court directs
- 13 the respondent to engage in personal counseling, the court shall provide in the order that
- 14 the counseling must propose alternatives to aggression if that type of counseling is available;
- 15 [OR FAMILY COUNSELING OR MEDIATION];
- 16 (8) restrain the respondent from entering a propelled vehicle in the possession of
- 17 or occupied by the petitioner.

18 \* Sec. 10. AS 25.35.060 is amended to read:

19 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic violence" means a crime

20 under AS 11.41 when the victim is a spouse or a former spouse of the respondent; a parent,

21 grandparent, child, or grandchild of the respondent; a member of the social unit comprised of

22 those living together in the same dwelling as the respondent; or a person who is not a spouse or

23 former spouse of the respondent but who previously lived in a spousal relationship with the

24 respondent or is in or has been in a dating, courtship, or engagement relationship with the

25 respondent.

26 \* Sec. 11. AS 33.30.161(b) is amended to read:

- 27 (b) To be eligible to serve time in a correctional restitution center, the prisoner
- 28 (1) must be employable or eligible to work on community service projects
- 29 approved by the commissioner and agree to secure employment or participate in community
- 30 service projects and obey the rules of the center;
- 31 (2) may not be serving a sentence for conviction of an offense

1 (A) involving violence or the use of force;  
2 (B) under AS 11.41.320, 11.41.330, or AS 11.61.120(a)(2)  
3 [AS 11.61.120(a)(6)];  
4 (3) may not have been convicted of a felony offense, in the state or another  
5 jurisdiction, involving violence or the use of force; and  
6 (4) may not have been convicted of an offense under AS 11.41.410 - 11.41.470  
7 or an offense in the state or another jurisdiction having elements substantially identical to an  
8 offense under AS 11.41.410 - 11.41.470.

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

BILL NO. HB 44

Revision Date: \_\_\_\_\_ Department Affected: Administration  
 Title: "An Act relating to domestic violence." BRU: Office of Public Advocacy  
 Component: Office of Public Advocacy  
 Sponsor: Ulmer, Parnell, B.Davis  
 Requestor: House Judiciary COMPONENT SERIAL NO. 

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Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

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	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.) See Attached

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 Division: Office of Public Advocacy Date: 2/5/91  
 Approved by Commissioner: Millett Keller  
 Agency: Department of Administration Date: 2/8/91

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 44

It is unlikely that the number of new cases generated under the provisions of this bill will have a significant impact on the Office of Public Advocacy civil and criminal caseload.