

HB

44

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



### REPRESENTATIVE FRAN ULMER

#### MEMORANDUM

February 6, 1991

To: Representative Georgianna Lincoln, Co-chair  
House Committee on Health, Education and Social  
Services

From: Representative *Fran* Ulmer

Subject: CSHB 44, "An Act relating to domestic violence."

Domestic violence is epidemic nationally and in Alaska. Each year more than one million women in the United States are treated for injuries caused during battering. In Alaska, more than 19,000 women are victims of domestic violence. HB44 revises existing laws to improve protection of those victims. The bill includes:

1. A change in the harassment statute to clarify that if a person knowingly violates a provision of a domestic violence restraining order, the crime of harassment is committed. Under current law, arrests and prosecutions are not being made because it is difficult to prove that the defendant acted with "intent" to harass.

2. An amendment to statute to disallow an order by the court that the defendant participate in family counseling; rather that personal counseling which proposes alternatives to aggression be ordered. Family counseling is dangerous in domestic violence cases. Many battered women report that family therapy sessions were followed by violent episodes.

3. A change to expand the list of persons eligible to obtain domestic violence restraining orders to include people in dating relationships. This is in response to teen violence.

4. A provision clarifying that the court is prohibited from issuing orders that restrain petitioners as well as respondents unless the court finds that the petitioner subjected the respondent to domestic violence. The practice of issuing mutual restraining orders is detrimental to the victim.

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99811-3100 • (907) 465-4947



Recycled Paper

*Sponsor Stmt*

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5. An amendment to law providing that the sentencing judge may mitigate the presumptive terms in cases of homicide and assault if the defendant acted in response to domestic violence perpetrated by the victim against the defendant or the defendant's child. The State of Washington lists domestic violence as a mitigating factor to presumptive sentencing. There are efforts underway in several states- including Ohio, which was highly publicized- to obtain pardons or sentence reductions for women where "the battered woman syndrome" was a precipitating factor.

CSHB 44-- RELATED TO DOMESTIC VIOLENCE  
Sectional Analysis  
February 5, 1991

SECTION 1. Amends the harassment statute to clarify that if a person knowingly violates a provision of a domestic violence restraining order, the crime of harassment is committed.

SECTION 2. The change in this section is technical, necessitated by the renumbering in bill section 1.

Section 3. (a) The statutes are amended to specify that the court, in determining conditions of release, shall consider ordering the defendant to participate in personal counseling that provides alternatives to aggression if that counseling is available. The court shall no longer consider ordering the defendant to engage in family counseling.

(b) The first change to the definition of domestic violence in this section is technical to make the definition consistent throughout the statutes. The second change amends and expands the list of persons eligible to obtain injunctive relief orders in cases of domestic violence to include people in dating, courtship or engagement relationships.

SECTION 4. Amends the statutes by establishing that a sentencing court may mitigate the presumptive terms in cases of assault, attempted assault, homicide or attempted homicide when the defendant acted in response to domestic violence against the defendant or a child of the defendant.

Section 5. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

Section 6. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

Section 7. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

Section 8. Technical amendments correct punctuation and make this section consistent with bill section 3 regarding conditions of release.

Section 9. Amends the statute to clarify that the court may not issue a domestic violence restraining order which restrains the petitioner as well as the respondent unless the respondent has been subjected to domestic violence by the petitioner.

Page 2

Section 10. This amendment is made to provide consistency in the statutes, see bill section 9.

Section 11. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

Section 12. The change is technical, necessitated by renumbering in bill section 1.

**KENNETH C. KIRK**

Attorney-at-Law  
540 L Street, Suite 206  
Anchorage, Alaska 99501  
(907) 279-1659

February 19, 1991

VIA FAX - 465-2652

House Health and Social  
Services Committee

Re: HB 44

To Whom it May Concern:

I am writing to comment on House Bill 44, an act relating to domestic violence.

My primary concern with regard to this bill are the two sections in which a judge in a domestic violence case loses the option of ordering family counseling. I believe that judges should retain this option.

I suspect those who are pushing for this language will press the concept that all of these domestic violence cases involve husbands who intimidate and beat their wives, and that therefore it is unreasonable to force the battered wife into counseling. Unfortunately, that does not square with the facts of most domestic violence cases. I would guess that the majority of such petitions involve threats, property damage, mutual violence, or very light physical contact such as grabbing somebody by the arm or pushing somebody on the way out the door. The petitions are usually granted by the courts because they are concerned that the situation might elevate into actual, serious domestic violence. Nonetheless, they are not battering cases and don't deserve to be treated as if they are.

Another thing to keep in mind is that family counseling is merely an option for the judge, and not mandatory. I haven't seen anything to suggest that judges are overusing family counseling; in fact a family counseling order is fairly rare in the courtroom on the days these cases are heard. Nonetheless, it is an option available to the judge if he gets one of those cases in which it appears that the central problem is that communications within the family are breaking down. This is not the old days in which judges felt morally compelled to try to force warring couples back together; judges have generally used the power to order family counseling very conservatively.

House Health and Social  
Services Committee

Page 2

February 19, 1991

An additional word on mutual violence: The petitioner is simply the party who got down to the courthouse first to file something. The question of who is the petitioner and who the respondent can be an arbitrary one. In some cases the language being proposed may prevent the court from ordering counseling for the real instigator of domestic violence.

The divorce rate in this country is a national tragedy. This is a societal problem, and there is rarely anything the courts or the lawyers can do to change that statistic. There are those, however, who continually push for additional legislation or court decisions which impel marriages which might otherwise be salvageable toward an inevitable divorce. For instance, attorneys who push for absolute no-contact orders (no phone, no letters, no counseling, no intermediaries) early in a separation are contributing to the divorce rate. All marriages have problems at some point or other, but we should not necessarily assume that the marriage is irreparable merely because one of the parties went down to the night magistrate and filed a paper to try to get the other party removed from the house. Commentators constantly bemoan the high divorce rate in this county; in HB 44 the legislature is being tempted to make it worse.

Sincerely yours,



KENNETH C. KIRK

KCK/baj

HB 44 -- RELATED TO DOMESTIC VIOLENCE  
Sectional Analysis

SECTION 1. Amends the harassment statute to clarify that if a person knowingly violates a provision of a domestic violence restraining order, the crime of harassment is committed.

SECTION 2. The change in this section is technical, necessitated by renumbering in bill section 1.

SECTION 3.(a) The statutes are amended to specify that the court, in determining conditions of release, shall consider ordering the defendant to participate in personal counseling that provides alternatives to aggression if that counseling is available. The court shall no longer consider ordering the defendant to engage in family counseling.

(b) The first change to the definition of domestic violence in this section is technical to make the definition consistent throughout the statutes. The second change amends and expands the definition to provide protection under the statutes for victims who have been in dating, courtship or engagement relationships with the defendant.

SECTION 4. Provides for a mandatory jail sentence of not less than 72 consecutive hours if the defendant is convicted of a misdemeanor involving domestic violence and if in the last ten years the defendant was convicted of either a felony or a misdemeanor involving domestic violence.

SECTION 5. Amends the statutes by establishing that a sentencing court may mitigate the presumptive terms in cases of assault, attempted assault, homicide or attempted homicide when the defendant acted in response to domestic violence against the defendant or a child of the defendant.

SECTION 6. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

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SECTION 9. Technical amendments correct punctuation and make this section consistent with bill section 3 regarding conditions of release.

SECTION 10. The amendment is technical in order to make the definition of domestic violence consistent throughout the statutes, reference bill section 3.

SECTION 11. The change is technical, necessitated by renumbering in bill section 1.

*HB 44 Sectional*

# Sitkans Against Family Violence



February 1, 1991

To Whom It May Concern:

I am writing to indicate my support for Representative Ulmer's bill, HB 44. The revisions made to existing law within this bill are very much needed.

In my work in a shelter for battered women, I have seen many situations where a woman is abused by a dating partner with whom she has never lived. According to existing temporary restraining order procedures, that woman is not eligible for relief from the court, even though her situation may be as violent and dangerous as a woman who has lived with her batterer.

The issue of "personal or family counseling" is also significant. We find that any counseling which forces the victim of violence into an office with her perpetrator is both unproductive and dangerous. A victim of violence cannot speak honestly about problems in a relationship in front of her perpetrator; she is endangered if she does so. The therapist may be able to stop violence in her/his office, but s/he can do nothing about what happens once the couple leaves. Sentencing a batterer to joint counseling forces the victim into this compromised position. I very much support Representative Ulmer's suggested revision in this area.

Thank you for considering my input. I would be happy to provide further comment at any time.

Sincerely,

*Kathleen McGraw*  
Kathleen McGraw  
Executive Director

# Abuse victim freed after Seldovia stabbing case review

ANCHORAGE (AP) — Jailing a battered woman who killed her abusive boyfriend in Seldovia after a tormented relationship would be unjust, a special three-judge panel ruled Friday.

The panel sentenced Wan-la Darlene Pabst, 41, to one year in jail, which is equivalent to time she has already served, and to four years probation. During that time, she will be required to attend about 13 months in residential treatment programs for battered women with alcohol problems.

"We see no need to confine her to protect the public," Superior Court Judge Brian Shortell said after the judges Friday listened to expert testimony that Pabst was a victim of "battered women's syndrome."

Pabst was charged with second-degree murder after stabbing Albert Gibbs in the chest at their Seldovia home in June. The state later reduced the charge to manslaughter, which carries a five-year presumptive sentence. Pabst pleaded no contest.

The case was referred to the three-judge sentencing panel in November when a Kenai judge concluded Pabst should be given a lesser sentence than the minimum 2½-year term he could legally impose.

When Gibbs was killed, he and Pabst had been living together for about a year. Court records show Gibbs repeatedly beat Pabst, sodomized her against her will, ripped out her fingernails and once forced her head into a "honey bucket."

Pabst learned only after he was dead that Gibbs had a long history of violent behavior, including convictions for assault and rape.

Three times during the year they lived together Pabst filed assault charges against Gibbs for beating her. Each time she asked that the charges be dropped.

In arguing for the five-year presumptive sentence, Assistant District Attorney Rhonda Butterfield Roberson of Kenai said Pabst should be held responsible for Gibbs' death because she rejected efforts by police

and prosecutors to jail him and free her from the relationship.

"This whole thing could have been prevented if she had taken advantage of the protections offered by the system," Roberson said after the hearing.

But defense lawyer Kevin McCoy of Kenai said Gibbs isolated Pabst from her friends and family, controlled her money and convinced her no one would believe her if she took him into court.

Frances Purdy, an expert in domestic violence, testified Friday that Pabst's feelings of hopelessness and

of being trapped are typical of battered women. Pabst was reared by abusive parents, she said.

On June 5, the night of the killing, Pabst and Gibbs spent part of the evening drinking at the Seldovia Lodge Bar and got into an argument when Pabst dropped her wallet and Gibbs refused to give it back. When they got home, Gibbs removed three photographs of Pabst's children from the wallet and burned them in front of her, court documents show.

Pabst went into the bathroom, noticed a knife

there, took it and stabbed Gibbs once in the chest. She called for help immediately, but Gibbs was stabbed in the heart and he died.

Speaking in her defense Friday, Pabst said she stayed with Gibbs because he was not all bad and she wanted things to work out. She said, "I thought he'd change."

Tired of Power Outages?

**Vote Carey  
HEA Director**

BILL NO: HB 44

DATE: February 6, 1991

TITLE: An Act relating to domestic violence.

CONTACT: Barbara Miklos  
Executive Director  
Council on Domestic Violence  
and Sexual Assault

COUNCIL ON DOMESTIC VIOLENCE  
AND SEXUAL ASSAULT  
POSITION STATEMENT

The Council on Domestic Violence and Sexual Assault supports HB 44. This legislation contains numerous sections that will promote the protection of victims of domestic violence. As more is learned about the dynamics of domestic violence, it becomes apparent that revisions must be made to existing laws. This legislation addresses many of the changes in legislation the Council has identified as important.

Alaska continues to maintain high rates of domestic violence. According to a study conducted by the University of Alaska, 26% of the women in Alaska have been victims of domestic violence in their lives. Recently in Anchorage, an apparent domestic violence murder-suicide was committed. Tragedies such as this point out how important it is that changes in legislation to further protect victims are identified and made.

*By* Andy Klamser  
Andy Klamser, Chair  
Council on Domestic Violence  
and Sexual Assault

TESTIMONY TO HOUSE HEARS

7 FEB 91

HB 44

①

Good morning, I am Steve Strube, Pres. of the Alaska Family Support Group. I am here this morning to express strong objections to this bill as written by Alaska's Pro-Family interests.

We have some very serious concerns about this bill regarding the language change on Page 3 lines 8, 9, 10 that remove the words [or family] and new text is added. This change takes domestic violence out of the realm of family violence and places the blame solely on the defendant.

Please note that Black's law dictionary defines domestic relations as that branch of law which deals with matters of the household or family. We deplore family violence and we believe the domestic violence issue is a family issue, not an issue to be dealt with solely by counseling the accused. Shouldn't the perpetrator also be required to engage in counseling?

Family Violence in America is a national disgrace. The latest research in this field shows that more often than not mutual battering occurs rather than unilateral violence. Prof R L McNeely, PH.D, submitted research to Congress on this issue that reveals male battering by women occurs at a 2 to 1 ratio more often than male to female violence.

On page 3 line 13, we make note that children are included in this domestic violence bill. What is the difference between an act of domestic violence against a child, and child abuse?

Will accusations of child abuse/neglect be handled under this law or under current child abuse laws? (2)

The addition to the statute on page 3, lines 21 thru 30, take the courts discretion away to apply reasonable penalties for domestic violence convictions. The court now has the option to impose sentences of imprisonment for convictions. This addition will result in mothers going to jail at an alarming rate. Statistics released by DFYS Director Russ Webb on Jan 20, 1991 to Sandy Armstrong; Alaska Dads and Moms, shows that during the period 1987, 88, 89, 90, women were the perpetrators of child abuse neglect in 58% of the cases.

Regarding the same section of the bill - Does the issuance of a temporary restraining order constitute a conviction to be used as criteria for imprisonment? Please note that the manner in which TRO's are issued in Alaska violate due process of the accused because they are issued with no notice, and deny the accused the opportunity to deny or disprove the allegations or request that his children be able to access him (OR HER) during the period covered by the ~~actual~~ order. Will passage of this bill mean that all child abuse/neglect allegations will be initiated by a T.R.O.? How will this affect DFYS workload?

Finally, we are very concerned that false domestic violence, and child abuse/neglect allegations are being made in divorce proceedings to remove a parent from the home, and that 90% of these allegations are found to be invalid. Is this bill a tool to cut children completely out of their fathers lives?

We respectfully request that this bill be held in committee until we have the opportunity to have our legal council do a thorough analysis. We would also like to work with this committee on this bill to make it acceptable to families and children. We ~~look~~<sup>will</sup> forward copies of research to you that addresses the points made in our testimony.

Steven P. Strube  
PO BOX 521155  
BIG LK, AK 99652  
892-7760

Received 2/11/91  
Submitted by Cindy Smith

1 of 3

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No 301 • Juneau, Alaska 99801 • (907) 586-3650

Abused Women - Action Clinic (AWAIC);  
Advocates for Victims of Violence (AVV);  
Aiding Women in Abuse and Rape Emergencies (AWAIRE);  
Alaska Women's Resource Center (AWRC); Arctic Women's Clinic (AWIC);  
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;  
Kodiak Women's Resource & Crisis Center (KWRC);  
Marshall Regional Women's Crisis Program;  
Tongass Community Counseling Center; Parent Aid Family Support Center;  
Safe & Fear-Free Environment (SAFE); Sitkas Against Family Violence (SAFV);  
Seward Life Action Council (SLAC); Southeastern Alaska Council  
for the Prevention of Child Sexual Assault (SWACPCSA);  
South Peninsula Women's Services (SPWS);  
Standing Together Against Rape (STAR); Tundra Women's Center (TWC);  
UNASSANAH Against Sexual Assault & Family Violence (USAFV);  
Valley Women's Resource Center (VWRC);  
Women in Crisis Counseling & Assistance (WICCA);  
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

The Network on Domestic Violence and Sexual Assault supports HB 44 which provides important protection for victims of domestic violence. The comments focus on the substantive section of the bill.

SECTION 1 changes the harassment statute so it is clear that any contact in violation of a restraining order is illegal. Arrests and prosecutions for contacts in violation of restraining orders are not being made under the language of the existing law because it is difficult to prove that defendants "intended" to harass or annoy the other parties. Yet, acts which on their face do not appear to be threatening or even objectionable, may be threatening given the history of a violent relationship.

The Network has several suggestions about this issue of violating a restraining order. On February 1, the Council on Domestic Violence and Sexual Assault conducted a statewide teleconference and learned that courts in various communities are issuing orders that restrain petitioners as well as respondents. This restraint is usually not based on evidence that the petitioner was violent toward the respondent. This practice is against evidentiary standards of law and runs counter to the recommendations of the National Council of Juvenile and Family Court judges. Therefore, the ~~Network~~ <sup>Network</sup> recommends the following clarification be added to AS 25.35.010 (a new section (d)):

Notwithstanding (b) of this section, the court may not enter an order restraining the petitioner unless the court finds evidence that the petitioner subjected the respondent to domestic violence.

AS 25.35.020 will also need to be revised to add a similar provision. Although the Network believes that existing law was not meant to restrain a petitioner, this becomes more important with the changes proposed in HB 44 which would make any contact in violation of a restraining order a crime.

Also, the Network would like to see contact in violation of a restraining order as a separate crime, not part of the harassment statute. The new section could be called Violation of a Domestic Violence Injunctive Relief Order. Law enforcement officials state that harassment is considered one of the least serious crimes. The Network would also like to see the degree of crime for violation of restraining order increased to a Class A misdemeanor.

to: Patty  
Huss HESS

Sections 3 and 9 change statutes to afford more protection to victims by changing language that allows courts to order defendants released before trials in criminal domestic violence cases or respondents of domestic violence restraining orders to engage in family counseling or mediation. With the new language courts are allowed to order defendants or respondents "to engage in personal counseling; if the court shall provide in that order that the counseling must propose alternatives to aggression if that type of counseling is available".

Family counseling and mediation are dangerous in domestic violence cases. Many battered women report that past family therapy and mediation sessions were followed by violent episodes. In family counseling, battering is not seen as the primary treatment issue but rather a symptom of some larger underlying problem. The result of this is that the batterers' non-violence may be seen as "negotiable". The primary purpose of a restraining order is safety for the victim. It is important for the batterer to address his/her violence, and that is best accomplished in a setting where the counselors are trained in domestic violence.

Sections 3, 7, 8, and 10 expand the list of persons eligible to obtain injunctive relief orders in cases of domestic violence as well as other legal protections provided to victims of domestic violence to include people in dating, courtship or engagement relationships.

There are many instances when people in dating, courtship or engagement relationships, adults and teens, need the protection of domestic violence restraining orders. Also, police officers may arrest for domestic violence misdemeanor assaults even if it was not committed in their presence; it is important that this protection be provided in dating, engagement and courting relationships.

Section 4 requires a minimum sentence of imprisonment of not less than 72 consecutive hours for a defendant previously convicted of a misdemeanor or felony involving domestic violence. Although the Network is concerned that many domestic violence offenders (including second and third-time offenders) are not serving any time in jail, the Network does not believe this section will address that problem. Records kept by various criminal justice agencies do not distinguish between domestic violence and non-domestic violence crimes. For example, if an individual is charged with fourth degree assault, there would be no way of knowing if that was a domestic violence assault.

Section 5 adds a mitigating factor to presumptive sentences for assaults or attempted assaults or for homicides or attempted homicides when the defendant acted in response to aggravated or repeated instances of domestic violence perpetration by the victim against the defendant or a minor child of the defendant. Since elder abuse is a problem in Alaska, the Network suggests specifying immediate family member not just minor child of the defendant.

Cindy Smith 3 of 3

Domestic violence, child abuse and elder abuse continue to be acute problems in our state. Victims of domestic violence who have been the victims of repetitive physical and psychological abuse develop the "battered woman syndrome." As the battered woman's syndrome progresses, a battered woman becomes economically and psychologically unable to leave her attacker. Also, victims who leave their abuser are in danger; many abusers do kill victims who leave. Battered women who kill their batterers are normally not a danger to society. They have committed this crime because they have no other way out of the brutal situations they were in or because they perceived they had no way out. For these reasons, it is important that the criminal justice system recognize that the crimes they committed against their batterers may be a form of self-defense.

CS FOR HOUSE BILL NO. 44 ( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SEVENTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES ULMER, Parnell, B.Davis

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 person

6 (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; or

13 (E) [(5)] subjects another person to offensive physical contact; or

14 (2) that person knowingly [(6)] violates a provision of an order issued under

\*\*\*\*\*  
\*  
\* DELIVER TO: LHSCHES \*  
\* \*  
\* ORIGINAL \*  
\* SENT: 02/20/91 TIME: 09:34 \*  
\* FROM: LIOCLAI \*  
\* SUBJECT: 91-02-089;FS;DOMEST VIOL;2-20 \*  
\* PRINT DATE: 02/20/91 TIME: 09:34 \*  
\* \*  
\*\*\*\*\*

SUBJECT LINE TO READ: TC NO.;SHORT SUBJECT;DATE

T/C NO: 91-02-089  
DATE: 02-20-91  
SPONSOR: (H) HEALTH, EDUCATION & SOCIAL SERVICES  
SUBJECT: HB 44, HB 103  
MODERATOR: LANI  
SITE: ANCHORAGE

FINAL STATS

\*\*\*\*\*  
WE HAD NO PARTICIPANTS AND DID NOT DIAL INTO THE TELECONFERENCE

\*\*\*\*\*

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 21, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 2/20/91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 44

HOUSE BILL NO. 44

AMENDING DOMESTIC VIOLENCE LAWS

"An Act relating to domestic violence."

RECOMMENDATIONS:

be replaced with CS HB 44 (HES)  the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note \_\_\_\_\_

zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

|                         | Check appropriate column: | Do Not Pass | No Rec | Amend |
|-------------------------|---------------------------|-------------|--------|-------|
| <i>Paul Lee</i>         |                           |             |        |       |
| <i>John C. Snyders</i>  |                           |             |        |       |
| <i>Dennis</i>           |                           |             |        |       |
| <i>Chris Davis</i>      |                           |             |        |       |
| <i>Mary Miller</i>      |                           |             |        |       |
| <i>Mark &amp; Helen</i> |                           |             |        |       |
| <i>Betty Davis</i>      |                           |             |        |       |
|                         |                           |             |        |       |
|                         |                           |             |        |       |
|                         |                           |             |        |       |

*[Signature]*

Chairman's Signature

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill No. HB 44

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to domestic violence BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: Ulmer, Parnell, B. Davis  
 Requestor: Ulmer COMPONENT SERIAL NO. 

|           |           |
|-----------|-----------|
| 000   000 | 000   768 |
|-----------|-----------|

EXPENDITURES/REVENUES: (Thousands of Dollars)

| OPERATING         | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS & CLAIMS   |       |       |       |       |       |       |
| TOTAL OPERATING   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   | 0.0   |
| CAPITAL           |       |       |       |       |       |       |
| REVENUE           |       |       |       |       |       |       |

FUNDING: (Thousands of Dollars)

|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUNDS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| TOTAL         | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |


POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228  
 Division: Alaska Court System Date: 02/04/91

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 02/04/91  
 Agency: Alaska Court System

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

Revision Date: \_\_\_\_\_ Department Affected: Corrections  
 Title: "An Act relating to domestic violence." BRU: \_\_\_\_\_  
 Sponsor: Rep. Fran Ulmer Component: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 

|  |  |  |  |
|--|--|--|--|
|  |  |  |  |
|--|--|--|--|

Expenditures/Revenues: (Thousands of Dollars)

| OPERATING         | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
|                   |       |       |       |       |       |       |
| CAPITAL           | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |
|                   |       |       |       |       |       |       |
| REVENUE           | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

FUNDING: (Thousands of Dollars)

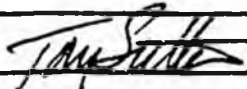
|               |     |     |     |     |     |     |
|---------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND  |     |     |     |     |     |     |
| FEDERAL FUNDS |     |     |     |     |     |     |
| OTHER         |     |     |     |     |     |     |
| TOTAL         | -0- | -0- | -0-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

POSITIONS:

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| FULL-TIME |  |  |  |  |  |  |
| PART-TIME |  |  |  |  |  |  |
| TEMPORARY |  |  |  |  |  |  |

Estimate of current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Tom Sutton, Director  Phone: 465-3376  
 Division: Administrative Services Date: 02-05-91

Approved by Commissioner: \_\_\_\_\_ Date: 02-05-91  
 Agency: Department of Corrections

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

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. 

|  |  |   |   |
|--|--|---|---|
|  |  | 4 | 3 |
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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     |
| MISCELLANECUS     | 0     | 0     | 0     | 0     | 0     | 0     |
| TOTAL OPERATING   | 0     | 0     | 0     | 0     | 0     | 0     |

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| CAPITAL | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

|         |   |   |   |   |   |   |
|---------|---|---|---|---|---|---|
| REVENUE | 0 | 0 | 0 | 0 | 0 | 0 |
|---------|---|---|---|---|---|---|

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 |
| TOTAL         | 0 | 0 | 0 | 0 | 0 | 0 |

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

Prepared By: *Brant McGee* Brant McGee, Public Advocate Phone: 274-1684  
 Division: Office of Public Advocacy Date: 2/5/91  
 Approved by Commissioner: *Millett Keller* 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.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 44

Revision Date: \_\_\_\_\_ Department Affected: Public Safety  
Title: An act relating to domestic violence BRU: Alaska State Troopers  
Component: Detachments

Sponsor: Rep. Ulmer  
Requestor: H. HESS

COMPONENT SERIAL NO. 

|  |   |   |   |
|--|---|---|---|
|  | 7 | 9 | 9 |
|--|---|---|---|

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

| OPERATING         | FY 92 | FY 93 | FY 94 | FY 95 | FY 96 | FY 97 |
|-------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES |       |       |       |       |       |       |
| TRAVEL            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

|                 |     |     |     |     |     |     |
|-----------------|-----|-----|-----|-----|-----|-----|
| GENERAL FUND    |     |     |     |     |     |     |
| FEDERAL FUNDS   |     |     |     |     |     |     |
| OTHER/PROG RCPT |     |     |     |     |     |     |
| TOTAL           | -0- | -0- | -0- | -0- | -0- | -0- |

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)  
No fiscal impact anticipated.

Prepared by: Gayle A. Horetski Phone: 465-4322  
Division: Commissioner's Office Date: 2/6/91

Approved by Commissioner: Gayle A. Horetski Richard L. Burton  
Agency: Department of Public Safety Date: 2/6/91

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

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

BILL NO. HB 44

Revision Date: \_\_\_\_\_ Department Affected: Department of Administration  
 Title: "An Act relating to domestic violence." BRU: Public Defender Agency  
 Sponsor: Rep. Ulmer, Parnell, B. Davis Component: \_\_\_\_\_  
 Requestor: HESS COMPONENT SERIAL NO. 

|   |   |  |  |
|---|---|--|--|
| 4 | 2 |  |  |
|---|---|--|--|

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            |       |       |       |       |       |       |
| CONTRACTUAL       |       |       |       |       |       |       |
| SUPPLIES          |       |       |       |       |       |       |
| EQUIPMENT         |       |       |       |       |       |       |
| LAND & STRUCTURES |       |       |       |       |       |       |
| GRANTS, CLAIMS    |       |       |       |       |       |       |
| MISCELLANEOUS     |       |       |       |       |       |       |
| TOTAL OPERATING   | -0-   | -0-   | -0-   | -0-   | -0-   | -0-   |

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| CAPITAL | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

|         |     |     |     |     |     |     |
|---------|-----|-----|-----|-----|-----|-----|
| REVENUE | -0- | -0- | -0- | -0- | -0- | -0- |
|---------|-----|-----|-----|-----|-----|-----|

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

Estimate of current year impact: None

ANALYSIS: (Attach a separate page if necessary.)

*Robert K. Bickler*

Prepared By: John Salemi, Public Defender Phone: 279-7541  
 Division: Public Defender Agency Date: 2/6/91  
 Approved by Commissioner: Millett Keller *Wick Miller*  
 Agency: Department of Administration Date: 2/11/91

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

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 "An

1 Act VIOLENCE. (a) In determining the conditions of release under AS 12.30.020 in cases  
 2 involving domestic violence, the court shall consider the following conditions and impose one  
 3 or more 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 12.55.155(d) is amended by adding a new paragraph to read:

19 (17) in a conviction for assault or attempted assault under AS 11.41.200 -  
 20 11.41.220 or for homicide or attempted homicide under AS 11.41.100 - 11.41.130, the defendant  
 21 acted in response to domestic violence perpetrated by the victim against the defendant or a minor  
 22 child of the defendant and the domestic violence consisted of aggravated or repeated instances  
 23 of assaultive behavior.

24 \* Sec. 5. AS 12.55.185 is amended by adding a new paragraph to read:

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

26 \* Sec. 6. AS 18.65.520(c)(1) is amended to read:

27 (c) As used in this section

28 (1) "domestic violence" means a crime under AS 11.41 when the victim is a  
 29 spouse or a former spouse of the person who committed the crime; a parent, grandparent,  
 30 child, or grandchild of the person who committed the crime; [,] a member of the social unit  
 31 comprised of those living together in the same dwelling as the person who committed the crime;

1 [.] or another person who is not a spouse or former spouse of the person who committed the  
2 crime but who previously lived in a spousal relationship with the person who committed the  
3 crime or is in or has been in a dating, courtship, or engagement relationship with the person  
4 who committed the crime;

5 \* Sec. 7. AS 18.66.900(3) is amended to read:

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

12 \* Sec. 8. AS 25.35.010(b) is amended to read:

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

- 20 (1) restrain the respondent from subjecting the petitioner to domestic violence;  
21 (2) direct the respondent to vacate the home of the petitioner;  
22 (3) restrain the respondent from communicating directly or indirectly with the  
23 petitioner;  
24 (4) direct the respondent to pay support for the petitioner or for a minor child in  
25 the care of the petitioner if there is an independent legal obligation of the respondent to support  
26 the petitioner or the child;  
27 (5) award temporary custody of a minor child to the petitioner;  
28 (6) direct the respondent to pay medical expenses incurred by the petitioner as  
29 a result of the domestic violence;  
30 (7) direct the respondent to engage in personal counseling; if the court directs  
31 the respondent to engage in personal counseling, the court shall provide in the order that

1 the counseling must propose alternatives to aggression if that type of counseling is available;  
2 [OR FAMILY COUNSELING OR MEDIATION];

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

5 \* Sec. 9. AS 25.35.010 is amended by adding a new subsection to read:

6 (e) The court may not issue an order restraining a petitioner under this section unless the  
7 court finds that the respondent has been subjected to domestic violence by the petitioner.

8 \* Sec. 10. AS 25.35.020(c) is amended to read:

9 (c) An order issued under this section may include a provision described in  
10 AS 25.35.010(b). The court may not issue an order restraining a petitioner under this  
11 section unless the court finds that the respondent has been subjected to domestic violence  
12 by the petitioner [, EXCEPT AN ORDER FOR MEDIATION]. The order shall be endorsed  
13 with the date and hour of issuance, shall be filed in the clerk's office and entered in the records  
14 of the court, and shall state the reason that it was granted without notice. The order shall remain  
15 in effect for a period not to exceed 20 days, unless extended by the court for good cause. The  
16 reasons for the extension shall be entered in the records of the court.

17 \* Sec. 11. AS 25.35.060 is amended to read:

18 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic violence" means a crime  
19 under AS 11.41 when the victim is a spouse or a former spouse of the respondent; a parent,  
20 grandparent, child, or grandchild of the respondent; a member of the social unit comprised of  
21 those living together in the same dwelling as the respondent; or a person who is not a spouse or  
22 former spouse of the respondent but who previously lived in a spousal relationship with the  
23 respondent or is in or has been in a dating, courtship, or engagement relationship with the  
24 respondent.

25 \* Sec. 12. AS 33.30.161(b) is amended to read:

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

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