

HB

44

*New Bill  
or proposed CS*

SENATE CS FOR CS FOR HOUSE BILL NO. 44 (STATE AFFAIRS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

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

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 11.56 is amended by adding a new section to read:

4 Sec. 11.56.740. VIOLATING A DOMESTIC VIOLENCE RESTRAINING ORDER. (a)

5 A person commits the crime of violating a domestic violence restraining order if

6 (1) the person knowingly violates a provision of an order issued under

7 AS 25.35.010(b) or 25.35.020 restraining the person from communicating directly or indirectly

8 with another; and

9 (2) at the time the restraining order was issued, the court made a finding that the

10 person had subjected another to domestic violence.

11 (b) Violation of this section is a class A misdemeanor.

12 \* Sec. 2. AS 11.61.120(a) is amended to read:

13 (a) A person commits the crime of harassment if, with intent to harass or annoy another

14 person, that person

1 (1) insults, taunts, or challenges another person in a manner likely to provoke an  
2 immediate violent response;

3 (2) telephones another and fails to terminate the connection with intent to impair  
4 the ability of that person to place or receive telephone calls;

5 (3) makes repeated telephone calls at extremely inconvenient hours;

6 (4) makes an anonymous or obscene telephone call or a telephone call that  
7 threatens physical injury; or

8 (5) subjects another person to offensive physical contact [; OR

9 (6) VIOLATES A PROVISION OF AN ORDER ISSUED UNDER  
10 AS 25.35.010(b) OR 25.35.020 RESTRAINING THE RESPONDENT FROM  
11 COMMUNICATING DIRECTLY OR INDIRECTLY WITH THE PETITIONER].

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

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

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

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

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

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

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

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

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

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

5 (9) communicates in person with another in violation of AS 11.56.740  
6 [AS 11.61.120(a)(6)] and, during the communication, possesses on the person a deadly weapon,  
7 other than an ordinary pocketknife.

8 \* Sec. 4. AS 12.30.025 is amended to read:

9 Sec. 12.30.025. **RELEASE BEFORE TRIAL IN CASES INVOLVING DOMESTIC**  
10 **VIOLENCE.** (a) In determining the conditions of release under AS 12.30.020 in cases involving  
11 domestic violence, the court shall consider the following conditions and impose one or more  
12 conditions it considers reasonably necessary to protect the alleged victim of the domestic  
13 violence, including ordering the defendant

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

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

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

17 (4) to engage in [PERSONAL OR FAMILY] counseling; if the court directs the  
18 defendant to engage in personal counseling, the court shall provide in the order that the  
19 counseling must propose alternatives to aggression if that type of counseling is available;  
20 if the court directs the defendant to participate in family counseling, it shall make a finding  
21 that family counseling will not result in additional domestic violence;

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

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

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

30 (17) in a conviction for assault or attempted assault or for homicide or attempted  
31 homicide, the defendant acted in response to domestic violence perpetrated by the victim against

1 the defendant and the domestic violence consisted of aggravated or repeated instances of  
2 assaultive behavior.

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

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

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

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

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

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

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

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

- 29 (1) restrain the respondent from subjecting the petitioner to domestic violence;  
30 (2) direct the respondent to vacate the home of the petitioner;  
31 (3) restrain the respondent from communicating directly or indirectly with the

1 petitioner;

2 (4) direct the respondent to pay support for the petitioner or for a minor child in  
3 the care of the petitioner if there is an independent legal obligation of the respondent to support  
4 the petitioner or the child;

5 (5) award temporary custody of a minor child to the petitioner;

6 (6) direct the respondent to pay medical expenses incurred by the petitioner as  
7 a result of the domestic violence;

8 (7) direct the respondent to engage in [PERSONAL OR FAMILY] counseling;  
9 if the court directs the respondent to engage in personal counseling, the court shall provide  
10 in the order that the counseling must propose alternatives to aggression if that type of  
11 counseling is available; if the court directs the respondent to participate in family  
12 counseling, it shall make a finding that family counseling will not result in additional  
13 domestic violence [OR MEDIATION];

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

16 \* Sec. 10. AS 25.35.010 is amended by adding a new subsection to read:

17 (e) ~~Except for a restraining order that prohibits the petitioner from communicating~~  
18 ~~directly or indirectly with the respondent, the court may not issue an order restraining a petitioner~~  
19 ~~under this section unless the court finds that the respondent has been subjected to domestic~~  
20 ~~violence by the petitioner. The court may not issue a restraining order that prohibits the~~  
21 ~~petitioner from communicating directly or indirectly with the respondent unless the court finds~~  
22 ~~that~~

23 (1) ~~the respondent has been subjected to domestic violence by the petitioner; or~~

24 (2) ~~there is other good cause based on extraordinary circumstances of the case as~~  
25 ~~supported by specific findings of fact by the court.~~

26 \* Sec. 11. AS 25.35.020(c) is amended to read:

27 (c) An order issued under this section may include a provision described in  
28 AS 25.35.010(b). ~~Except for a restraining order that prohibits the petitioner from~~  
29 ~~communicating directly or indirectly with the respondent, the court may not issue an order~~  
30 ~~restraining a petitioner under this section unless the court finds that the respondent has~~  
31 ~~been subjected to domestic violence by the petitioner. The court may not issue a restraining~~



1 order that prohibits the petitioner from communicating directly or indirectly with the  
 2 respondent unless the court finds that the respondent has been subjected to domestic  
 3 violence by the petitioner or that there is other good cause based on extraordinary  
 4 circumstances of the case as supported by specific findings of fact by the court [, EXCEPT  
 5 AN ORDER FOR MEDIATION]. The order shall be endorsed with the date and hour of  
 6 issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state  
 7 the reason that it was granted without notice. The order shall remain in effect for a period not  
 8 to exceed 20 days, unless extended by the court for good cause. The reasons for the extension  
 9 shall be entered in the records of the court.

10 \* Sec. 12. AS 25.35.060 is amended to read:

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

18 \* Sec. 13. AS 33.30.161(b) is amended to read:

- 19 (b) To be eligible to serve time in a correctional restitution center, the prisoner
- 20 (1) must be employable or eligible to work on community service projects
  - 21 approved by the commissioner and agree to secure employment or participate in community
  - 22 service projects and obey the rules of the center;
  - 23 (2) may not be serving a sentence for conviction of an offense
    - 24 (A) involving violence or the use of force;
    - 25 (B) under AS 11.41.320, 11.41.330, or AS 11.56.740 [AS 11.61.120(a)(6)];
  - 26 (3) may not have been convicted of a felony offense, in the state or another
  - 27 jurisdiction, involving violence or the use of force; and
  - 28 (4) may not have been convicted of an offense under AS 11.41.410 - 11.41.470
  - 29 or an offense in the state or another jurisdiction having elements substantially identical to an
  - 30 offense under AS 11.41.410 - 11.41.470.

Old Bill

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

**BY THE HOUSE JUDICIARY COMMITTEE**

Offered: 3/15/91  
Referred: Finance

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

**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 11.56 is amended by adding a new section to read:

4           Sec. 11.56.740. **VIOLATING A DOMESTIC VIOLENCE RESTRAINING ORDER.** (a)

5           A person commits the crime of violating a domestic violence restraining order if the person  
6           knowingly violates a provision of an order issued under AS 25.35.010(b) or 25.35.020 restraining  
7           the person from communicating directly or indirectly with another person.

8           (b) Violation of this section is a class A misdemeanor.

9 \* **Sec. 2.** AS 11.61.120(a) is amended to read:

10           (a) A person commits the crime of harassment if, with intent to harass or annoy another  
11           person, that person

12                       (1) insults, taunts, or challenges another person in a manner likely to provoke an  
13           immediate violent response;

14                       (2) telephones another and fails to terminate the connection with intent to impair

1 the ability of that person to place or receive telephone calls;

2 (3) makes repeated telephone calls at extremely inconvenient hours;

3 (4) makes an anonymous or obscene telephone call or a telephone call that  
4 threatens physical injury; or

5 (5) subjects another person to offensive physical contact [; OR

6 (6) VIOLATES A PROVISION OF AN ORDER ISSUED UNDER  
7 AS 25.35.010(b) OR 25.35.020 RESTRAINING THE RESPONDENT FROM  
8 COMMUNICATING DIRECTLY OR INDIRECTLY WITH THE PETITIONER].

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

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

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

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

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

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

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

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

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

29 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on  
30 premises or in a propelled vehicle in violation of a provision of an order issued under  
31 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a deadly

1 weapon, other than an ordinary pocketknife; or

2 (9) communicates in person with another in violation of AS 11.56.740  
3 [AS 11.61.120(a)(6)] and, during the communication, possesses on the person a deadly weapon,  
4 other than an ordinary pocketknife.

5 \* Sec. 4. AS 12.30.025 is amended to read:

6 Sec. 12.30.025. **RELEASE BEFORE TRIAL IN CASES INVOLVING DOMESTIC**  
7 **VIOLENCE.** (a) In determining the conditions of release under AS 12.30.020 in cases involving  
8 domestic violence, the court shall consider the following conditions and impose one or more  
9 conditions it considers reasonably necessary to protect the alleged victim of the domestic  
10 violence, including ordering the defendant

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

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

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

14 (4) to engage in [PERSONAL OR FAMILY] counseling; if the court directs the  
15 defendant to engage in personal counseling, the court shall provide in the order that the  
16 counseling must propose alternatives to aggression if that type of counseling is available;  
17 if the court directs the defendant to participate in family counseling, it shall make a finding  
18 that family counseling will not result in additional domestic violence;

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

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

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27 (17) in a conviction for assault or attempted assault or for homicide or attempted  
28 homicide, the defendant acted in response to domestic violence perpetrated by the victim against  
29 the defendant and the domestic violence consisted of aggravated or repeated instances of  
30 assaultive behavior.

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

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

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

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

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

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

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

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

26 (1) restrain the respondent from subjecting the petitioner to domestic violence;

27 (2) direct the respondent to vacate the home of the petitioner;

28 (3) restrain the respondent from communicating directly or indirectly with the  
29 petitioner;

30 (4) direct the respondent to pay support for the petitioner or for a minor child in  
31 the care of the petitioner if there is an independent legal obligation of the respondent to support

1 the petitioner or the child;

2 (5) award temporary custody of a minor child to the petitioner;

3 (6) direct the respondent to pay medical expenses incurred by the petitioner as  
4 a result of the domestic violence;

5 (7) direct the respondent to engage in [PERSONAL OR FAMILY] counseling;  
6 if the court directs the respondent to engage in personal counseling, the court shall provide  
7 in the order that the counseling must propose alternatives to aggression if that type of  
8 counseling is available; if the court directs the respondent to participate in family  
9 counseling, it shall make a finding that family counseling will not result in additional  
10 domestic violence [OR MEDIATION];

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

13 \* Sec. 10. AS 25.35.010 is amended by adding a new subsection to read:

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

16 \* Sec. 11. AS 25.35.020(c) is amended to read:

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

25 \* Sec. 12. AS 25.35.060 is amended to read:

26 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic violence" means a crime  
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28 grandparent, child, or grandchild of the respondent; a member of the social unit comprised of  
29 those living together in the same dwelling as the respondent; or a person who is not a spouse or  
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31 respondent or is in or has been in a dating, courtship, or engagement relationship with the

1        respondent.

2        \* Sec. 13. AS 33.30.161(b) is amended to read:

3                (b) To be eligible to serve time in a correctional restitution center, the prisoner

4                        (1) must be employable or eligible to work on community service projects  
5 approved by the commissioner and agree to secure employment or participate in community  
6 service projects and obey the rules of the center;

7                        (2) may not be serving a sentence for conviction of an offense

8                                (A) involving violence or the use of force;

9                                (B) under AS 11.41.320, 11.41.330, or AS 11.56.740 [AS 11.61.120(a)(6)];

10                        (3) may not have been convicted of a felony offense, in the state or another  
11 jurisdiction, involving violence or the use of force; and

12                        (4) may not have been convicted of an offense under AS 11.41.410 - 11.41.470  
13 or an offense in the state or another jurisdiction having elements substantially identical to an  
14 offense under AS 11.41.410 - 11.41.470.

FISCAL NOTE

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

Bill No. 1  
Bill Version: CSHB 44(HES)  
(H) Publish Date: 2/22/91

Revision Date: \_\_\_\_\_  
Title: An act relating to domestic violence  
Sponsor: Rep. Ulmer  
Requestor: H. HESS

Department Affected: Public Safety  
BRU: Alaska State Troopers  
Component: Detachments

COMPONENT SERIAL NO. 

	7	9	9
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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						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

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	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
FEDERAL FUNDS						
OTHER/PROG RCPT						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
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):

5 Fiscal Notes

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. 

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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						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-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: Toni 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).

FISCAL NOTE

lo. 3  
 Bill Version: CSHB 44 (HES)  
 (H) Publish Date: 2/22/91

STATE OF ALASKA  
 1991 LEGISLATIVE SESSION

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. 

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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						
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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).

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

No. 4  
Bill Version: CSHB 44(JUD)  
(H) Publish Date: 3/15/91

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		
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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						
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 *W. B. Miller*  
Agency: Department of Administration Date: 2/11/91

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

STATE OF ALASKA  
1991 LEGISLATIVE SESSION

No. 5  
Bill Version: CSHB 44 (JUD)  
(H) Publish Date: 3/15/91

Revision Date: \_\_\_\_\_ Department Affected: Administration  
Title: "An Act relating to domestic violence." BRU: Office of Public Advocacy  
Sponsor: Ulmer, Parnell, B. Davis Component: Office of Public Advocacy  
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
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

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
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, 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.

BILL NO: HB 44

DATE: February 6, 1991

TITLE: An Act relating to domestic violence.

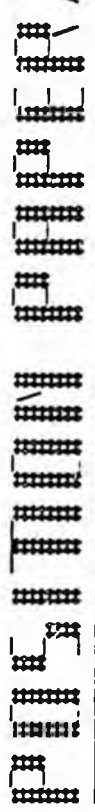
CONTACT: Barbara Miklos  
Executive Director  
Council on Domestic Violence  
and Sexual Assault

COUNCIL ON DOMESTIC VIOLENCE  
AND SEXUAL ASSAULT

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.

*Andy Klamsen*  
\_\_\_\_\_  
Andy Klamsen, Chair  
Council on Domestic Violence  
and Sexual Assault



# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

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

Abused Women's Aid in Crisis (AWAIC);  
Advocates for Victims of Violence (AVV);  
Aiding Women in Abuse and Rape Emergencies (AWARE);  
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);  
Bering Sea Women's Group (BSWG); Emmonak Women's Shelter;  
Kodiak Women's Resource & Crisis Center (KWRC);  
Manitlaq Regional Women's Crisis Program;  
Tongass Community Counseling Center; Parent Aid Family Support Center;  
Safe & Fear-Free Environment (SAFE); Sitka Against Family Violence (SAFV);  
Seward Life Action Council (SLAC); Southwestern Alaska Council  
for the Prevention of Child Sexual Assault (SWACPSA);  
South Peninsula Women's Services (SPWS);  
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWC);  
Unalaska 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 sections 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.

Law enforcement officials state that harassment is considered one of the least serious crimes. The bill would increase the degree of crime for violation of restraining order to a Class A misdemeanor in order to increase attention to and supervision of respondents who violate restraining orders. This is important since studies show that violation of court orders is an indicator of an abuser's potential lethality.

Sections 4 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.

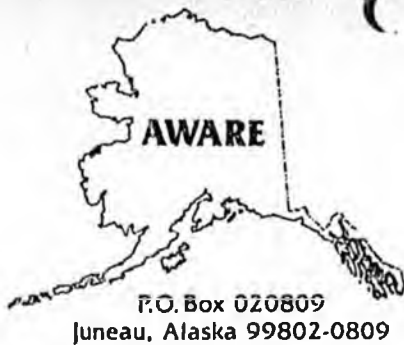
Sections 4, 7, 8 and 12 expand the list of persons eligible to obtain injunctive relief orders in cases of domestic violence as well as other legal protections provided to victims of domestic violence to include people in dating, courtship or engagement relationships.

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 9 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.

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.

Section 11 provides that judges may issue mutual restraining orders only if the respondent has been subjected to domestic violence. 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. 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.



## Aiding Women from Abuse and Rape Emergencies

"Serving Juneau and Nine Southeastern Communities"

(907) 586-6623 (business) (907) 586-1090 (crisis)

February 5, 1991

Honorable Fran Ulmer  
Alaska State House  
P.O. Box V  
Juneau, AK. 99811

Dear Representative <sup>Fran</sup>~~Ulmer~~:

On behalf of the Board of AWARE, Inc., I'd like to thank you for introducing House Bill 44, relating to domestic violence. As you know, AWARE provides shelter, counseling, and other support services to victims of domestic violence and their children.

If enacted into law, the provisions in HB44 will expand victims' rights and afford protections under the law which are not now available to some victims of domestic violence. In particular, the amended definition of domestic violence will assist those victims who did not have a "spousal" relationship with the perpetrator to obtain TROs. Our program has provided services to women, especially young women, who have been assaulted by their boyfriends and who, under current law, are not able to obtain TROs.

Recent cases in other states have dramatically shown the need to include domestic violence and the "battered woman's syndrome" as mitigating factors in convictions of assault and homicide perpetrated by a victim who has been subjected to repeated instances of abusive behavior. Alaskan law should recognize such mitigating factors and take them into consideration.

We appreciate your continued support in efforts to assist victims of domestic violence.

Sincerely,

Shirley R. Dean, Chair  
Board of Directors



## Other "Truths" about Domestic Violence: A Reply to McNeely and Robinson-Simpson

Daniel G. Saunders

Whenever I read in a professional journal that someone has found the Truth about a problem I wonder if more heat than light is being generated. An example is "The Truth about Domestic Violence: A Falsely Framed Issue."<sup>1</sup> The authors, McNeely and Robinson-Simpson, claim that the problem of domestic violence has been presented falsely as a problem of men's violence against women. They believe that male victimization has been ignored, that the public, legislators, and change agents are acting on a faulty assumption, and that legal action to protect the rights of women may lead to men's "social and legal defenselessness."<sup>2</sup>

As with most social problems, the truth about domestic violence is far more elusive than McNeely and Robinson-Simpson would like us to think. In fact, they may have led social workers further from the truth by failing to mention important limitations of the research they cite, ignoring evidence that counters the research, and relying heavily on conjecture, opinion, and anecdotal evidence. Existing evidence shows that women are abused to a greater extent than men and thus our priorities for services and legislation have been placed properly. Especially disturbing is that the conclusions made by McNeely and Robinson-Simpson may be used to block services for battered women, deny them their rights, and suggest types of intervention that may increase their risk of victimization. The question of whether husband abuse is a significant problem is profoundly important to the social work profession because social workers have been involved in developing services and policies aimed at halting domestic violence.

### Women's Right to Defense

McNeely and Robinson-Simpson cite several representative community and national surveys and one crime victimization survey to show that rates of violence by husbands and wives are about equal; more selective surveys of help-seeking battered women show similar results.<sup>3</sup> However, to call the violence by women "abusive" is to miss the mark. The authors fail to cite

evidence that most of the wives' violence is in self-defense and that size and strength differences mean the women will be the most victimized.

McNeely and Robinson-Simpson make the same mistake as Steinmetz in citing statistics on the equal rates of spousal homicides by husbands and wives without reporting the rates at which the homicides were in response to violence. Wolfgang's study, which showed equal rates of homicide for husbands and wives, also showed that in 60 percent of the cases in which wives killed husbands, the women were responding to violence. In only 9 percent of the cases in which husbands killed wives were the men reacting to the wives' violence. Although a justifiable self-defense motive was not established firmly in the study, Wolfgang concludes that "we are left with the undeniable fact that husbands more often than wives are major precipitating factors in their own homicide deaths."<sup>4</sup> Indirect evidence for self-defense comes from a study of women who had been in both a violent and a nonviolent relationship: 23 percent used violence occasionally when in a relationship with a violent man whereas only 4 percent did so in a nonviolent relationship.<sup>5</sup>

A study by this author of battered women at five shelters and a family service agency showed that most of the women had used violence, but largely for self-defense.<sup>6</sup> Of the women who used severe violence, 71 percent used it exclusively to defend themselves against their partner's aggression, which they often defined as "fighting back." The women's reports on their motives for violence were not correlated with a measure of social desirability response bias.

McNeely and Robinson-Simpson rely heavily on the early work of Steinmetz but do not reveal the flaws in her data presentation and conclusions. Some researchers have called her work on battered husbands "the battered data syndrome."<sup>7</sup> For example, Steinmetz left out the most serious forms of violence from her initial report; a subsequent report revealed that four wives and none of the husbands in 54 marriages suffered severe and repetitive beatings.<sup>8</sup>

McNeely and Robinson-Simpson also were selective in the data they presented. They left out the category of Steinmetz's original study—"pushing, shoving, grabbing"—that showed much higher rates for husbands. Contrary to the claims of McNeely and Robinson-Simpson and of Steinmetz herself, nowhere does Steinmetz measure who initiated physical aggression or what their motives were for being aggressive. All of the studies cited in the article suffer from the same inadequacy, yet McNeely and Robinson-Simpson apply the term "victim" to men unequivocally and use the phrase "reciprocal violence," which implies that the violence is equal in purpose and effect.

McNeely and Robinson-Simpson also report selectively from other studies. For example, two of the frequency categories in the Gelles study, both of which showed higher frequencies for husbands, were not reported.<sup>9</sup> The authors do not mention that the increases and decreases in marital violence rates between the 1975 and 1985 national family violence studies are not statistically significant.<sup>10</sup> The false conclusion is that violence against husbands is increasing and violence against wives is decreasing. The authors quote Straus and Gelles to explain that continued violence against husbands is probably from a lack of public concern and ameliorative programs for the problem of women's violence. Yet something is being done: If current findings on women's self-defense are generalizable, then efforts to stop men's violence and to offer women alternatives to a violent home will decrease violence against men.

### Consequences of Physical Differences

The generally greater size and strength of men means that women are likely to suffer greater injuries and, if they are to repel an attack, to be required to use a more severe form of violence. McNeely and Robinson-Simpson play down Steinmetz's statements that physical differences lead to greater injury to women by saying that "men were somewhat more likely to cause greater injury."<sup>11</sup> Steinmetz actually makes stronger statements about the greater harm to women:

When the wife slaps her husband, her lack of physical strength, plus his ability to restrain her, reduces the physical damage to a minimum. When the husband slaps his wife, however, his strength, plus her

bility to restrain him, results in considerably more damage."<sup>12</sup>

who batter average 45 pounds heavier, four to five inches taller than their partners, but strength and fighting experience are likely to give them an advantage.<sup>13</sup> McNeely and Robinson-Simpson falsely claim that the higher frequency of some acts of severe violence by women suggests that their violence is not merely a response to violence by their partners. Yet it is legalistically and likely that women will use the severe forms of violence to defend themselves or their children.<sup>14</sup> The results of McLeod's survey showed that none of the men was seriously injured unless a weapon (a gun or knife) had been used against them. Reporting on the Straus and Gelles study, McNeely and Robinson-Simpson claim that men used "weapons" more often but are "hitting, or trying to hit with anything" in the same category as the "use of knife or gun." Given size and strength differences, hitting with an object constitutes different "weapons" for men and women. Therefore, the Conflict Tactics (CT) scale and other measures of marital violence are not balanced for gender differences. Simply reporting men's and women's rates for a particular item or assigning categories of "severe" and "nonsevere" can be highly misleading.

Applying the theory of defensive violence to the National Crime Survey (NCS) data produces very different conclusions. If the cases of serious assault were most similar to Wolfson's homicide cases, then only a small percentage of the men used violence defensively compared with the majority of women. The same assumption applied to the NCS shows an estimated 74 percent of the men's assaults by women to be in response to attacks by their partners. McLeod's finding that men were more likely to be injured was the result of the use of weapons, and such cases are more likely to be reported in the type of time study she conducted. Although the proportion of incidents of women using a gun or knife was higher in the NCS study (34 percent compared with 22 percent), given the 10:13 ratio of male to female victimization, the ratio of men to women having a knife used against them still is skewed (one to eight women). McNeely and Robinson-Simpson do not reveal that 88 percent of men's injuries were minor, 17 percent of men needed some medical attention compared with 24 percent of the women (an overall male-female ratio of one to 1.8). The ratio of hospitalization rates is even more lopsided—one man was hospitalized for every 46 women. Thus, although the proportion of men's injuries is higher, the representative

NCS study indicates that women suffer more serious injuries.

McLeod's conclusion that the profiles of weapon use and injury are different for men and women is consistent with the theory of defensive violence. Her statement that violence against men and violence against women are independent events does not mean that the violence of one person is not in reaction to the violence of another, only that women used weapons more often than men and that as a result men were more likely to be injured.

Most studies of domestic violence fail to ask about the motives for and consequences of violence. The issue is not whether women have the capacity to be aggressive but whether they are abusive in their aggression, using it for coercion, domination, or the expression of anger and not for self-protection or the protection of others.

### Research Flaws and Misconceptions

In trying to correct what they see as an imbalance in the domestic violence literature, McNeely and Robinson-Simpson describe what they perceive as a number of "research flaws and common misconceptions." They also draw on literature from outside the realm of domestic violence.

### Who Is More Aggressive?

To show that women are as aggressive as men, they cite a review by Frodi, Macaulay, and Thome.<sup>15</sup> However, the review also contains some important qualifying statements. First, none of the studies was of people who were given the option of truly violent, hurtful behavior. Second, although women in the experiments did not differ from men in their overall rates of applying the experimental aggression (shock or annoying noise), in many situations the women avoided acting aggressively because of anxiety or guilt about being aggressive. Third, one factor that brought women's aggression up to the rate of male aggression was situations in which the justification for aggression was socially approved.

### Child Abuse

To bolster the point that women are as aggressive or more aggressive than men, McNeely and Robinson-Simpson cite Steinmetz, who says that women are more likely to abuse children. However, McNeely and Robinson-Simpson do not add that Steinmetz also points out that women spend more time with children and are usually the parent in single-parent homes, which are prone to in-

creased levels of stress.<sup>17</sup> When official reports of abuse were analyzed in a study by the American Humane Society and the study contained controls for "time at risk," 76 percent of the abusers were fathers.<sup>18</sup> In the first national study of family violence by Gelles, the difference between fathers and mothers was not very great and fathers used more serious forms of violence.<sup>19</sup>

### Underreported Victimization

McNeely and Robinson-Simpson also follow Steinmetz in claiming that the problem of husband abuse has been ignored because men are less likely to admit to their victimization. However, the evidence contradicts this claim. In the NCS data, the differences are not substantial, with 54 percent of the women and 45 percent of the men stating that they reported their victimization to the police.<sup>20</sup> One reason that some men may be reluctant to report all but the most severe violence against them is that they fear being arrested for just having attacked their partners. McNeely and Robinson-Simpson speculate that only a few men in the Steinmetz study participated in the face-to-face interview because they were reluctant to discuss their victimization, but Steinmetz gives other reasons—the time did not seem convenient for the husbands or they saw the research on families as the wives' obligation.<sup>21</sup>

The first national study of family violence by Straus and the community survey by Nisonoff and Bitman suggest that men are more willing than women to admit being subject to violence.<sup>22</sup> In both of these random surveys, the proportion of men who admitted being subject to violence was higher than the proportion of women who admitted being aggressive toward their partners. Underreporting by women appeared to occur in the community survey but not in the national study. Gelles speculated that "There are a number of possible reasons for these discrepancies, but one is that men, being in a superior position in the family and society, are perhaps less humiliated by being hit and are more likely to admit it than their wives."<sup>23</sup>

### Battered Women's Reasons for Staying

Most researchers, including Straus, list women's economic entrapment in intimate relationships as one of the reasons to aid battered women more than abused men.<sup>24</sup> McNeely and Robinson-Simpson, in contrast, state that "examinations of female spouse abuse victims reveal that low-income women are more likely than affluent women to leave."<sup>25</sup> This statement is based on Steinmetz's distortions

the United States," in R. J. Gelles, ed., *Family Violence*, p. 84.

20. McLeod, "Women Against Men," p. 173.

21. Steinmetz, *The Cycle of Violence*, p. 16.

22. M. A. Straus, R. J. Gelles, and S. K. Steinmetz, *Behind Closed Doors: Violence in the American Family* (New York: Anchor Press, 1980); and McNeely and Robinson-Simpson, "The Truth about Domestic Violence," p. 485.

23. Gelles, "The Truth About Husband Abuse," p. 140.

24. Straus, Gelles, and Steinmetz, *Behind Closed Doors*, p. 44.

25. McNeely and Robinson-Simpson, "The Truth about Domestic Violence," p. 487.

26. B. E. Aguirre, "Why Do They Return? Abused Wives in Shelters," *Social Work*, 30 (1985), pp. 350-354; L. M. Crisall, "A Comparison of Androgyny and Self-Actualization in Battered Women," *Dissertation Abstracts International*, 39 (1979), pp. 5039-5040; C. Ellsworth and L. Wagner, "Formerly Battered Women: A Follow-up Study." Paper presented at Council on Social Work Education, Louisville, Kentucky, 1981; C. A. Heintzelman, "Differential Utilization of Selected Community Resources by Abused Women." Unpublished doctoral dissertation, The Catholic University of America, 1980; B. Z. Lesser, "Factors Influencing Battered Women's Return to Their Mates Following a Shelter Program: Attachment and Situational Variables." Unpublished doctoral dissertation, California School of Professional Psychology, 1981; L. E. Okun, "A Study of Woman Abuse: 300 Battered Women Taking Shelter, 119 Women—Batterers in Counseling." Unpublished doctoral dissertation, University of Michigan, 1983; and (reports two studies) M. J. Strube, "The Decision to Leave an Abusive Relationship: Empirical Evidence and Theoretical Issues." Unpublished manuscript, Department of Psychology, Washington University, St. Louis, Mo.

27. Aguirre, "Why Do They Return?" p. 352.

28. B. J. Rounsaville, "Theories in Marital Violence: Evidence from a Study of Battered Women," *Victimology*, 3 (1978), pp. 11-31.

29. Pagelow, *Family Violence*, p. 194.

30. Straus, Gelles, and Steinmetz, *Behind Closed Doors*, p. 127.

31. N. A. Casenave and M. A. Straus, "Race, Class, Network Embeddedness and Family Violence: A Search for Potent Support Systems," *Journal of Comparative Family Studies*, 10 (1979), pp. 101-299.

32. L. L. Lockhart, "Methodological Issues in Comparative Racial Analyses: The Case of Wife Abuse," *Social Work Research and Abstracts*, 21 (1985), pp. 35-41.

33. Casenave and Straus, "Race, Class, Network Embeddedness and Family Violence," p. 296.

34. Kleviet, "The Battered Wife Syndrome," p. 223.

35. A. Brown, "Assault and Homicide at Home: When Battered Women Kill," in M. J. Saks and L. Saxe, eds., *Advances in Applied Social Psychology* (Vol. 3; Hillsdale, N.J.: Lawrence Erlbaum Associates, Inc., 1986).

36. J. Totman, *Murders—A Psycho-social Study of Criminal Homicide* (San Francisco: R & E Research Associates, 1978).

37. W. Wilbenka, "The Female Homicide Offender in Dade County, Florida," *Criminal Justice*

*Review*, 8 (1983), p. 13.

38. McNeely and Robinson-Simpson, "The Truth about Domestic Violence," p. 488.

39. D. Finkelhor and K. Yllo, *Lionsess to Rape: Sexual Abuse of Wives* (New York: Holt, Rinehart & Winston, 1985), pp. 170-171.

40. J. Goodwin, D. Sahl, and R. T. Rada, "False Accusations and False Denials of Incest," in J. Goodwin, ed., *Sexual Abuse: Incest Victims and Their Families* (Boston: John Wright, 1982); D.P.H. Jones and J. M. McGraw, "Reliable and Fictitious Accounts of Sexual Abuse of Children," *Journal of Interpersonal Violence*, 2 (1987), pp. 27-45; and J. J. Peters, "Children Who Are Victims of Sexual Assault and the Psychology of Offenders," *American Journal of Psychotherapy*, 30 (1976), pp. 598-642.

41. K. M. Dilco, "False Sexual Abuse Allegations: Causes and Concerns," *Social Work*, 32 (1987), pp. 540-541.

42. Ibid.

43. K. MacFarlane, "Child Sexual Abuse Allegations in Divorce Proceedings," in K. MacFarlane et al., eds., *Sexual Abuse of Young Children* (New York: Guilford Press, 1986).

44. M. Fields, "Wife Beating: Government Intervention Policies and Practices," in *Battered Women: Issues of Public Policy* (Washington, D.C.: U.S. Civil Rights Commission, 1978); and U.S. Commission on Civil Rights, *Under the Role of Threat: Battered Women and the Administration of Justice* (Washington, D.C.: U.S. Commission on Civil Rights, 1982).

45. D. G. Saunders and P. B. Sire, "Marital Violence and the Police: A Survey of Police Officers, Victims, and Victim Advocates," Final Research Report to the Wisconsin Council on Criminal Justice, 1980.

46. McNeely and Robinson-Simpson, "The Truth about Domestic Violence," p. 488.

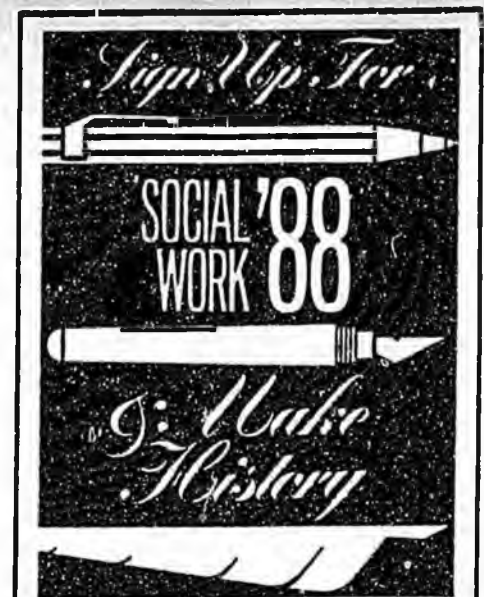
47. D. Finkelhor and D. Russell, "Women As Perpetrators: Review of the Evidence," in D. Finkelhor, ed., *Child Sexual Abuse: New Theory and Research* (New York: The Free Press, 1984), pp. 171-187; S. Taubman, "Beyond the Bravado: Sex Roles and the Exploitive Male," *Social Work*, 31 (1986), pp. 12-18; K. Yllo, "Sexual Inequality and Violence Against Wives in American States," *Journal of Comparative Family Studies*, 14 (1983), pp. 67-86.

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Daniel G. Saunders, PhD, is Assistant Scientist, Department of Psychiatry, and Preceptor, School of Social Work, University of Wisconsin-Madison, 600 Highland Avenue, Madison, WI 53792.

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# TELECOPY COVER SHEET

## Bethel Legislative Information Office

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TO: (S) State Affairs PHONE: \_\_\_\_\_

FROM: Bethel L.I.O. PHONE: \_\_\_\_\_

INSTRUCTIONS: Submit as written testimony for  
T/c 91.04.203

Date \_\_\_\_\_ Time \_\_\_\_\_

NUMBER OF PAGES: \_\_\_\_\_ (Not counting cover sheet)

SENT BY: \_\_\_\_\_

May 1, 1991

To: Representative Fran Ulmer and Senate State Affairs Committee

I support HB44. I believe it is important for people in dating relationships to be able to get protection from violent partners. Unfortunately, it is also important for parents to be able to be protected from their violent adult children.

I believe this bill will help us in taking steps to end the violence that is around us. It says that we as a community-all Alaskans-take the crime of domestic violence seriously. HB44 says we will do our best to protect all victims of domestic violence. It says to batterers that we do not approve of what they do and that they will get in trouble if they continue to hit or threaten victims.

I ask for your full support of HB44. Thank you.

*Alice Criswell*

Alice Criswell

May 1, 1991

To: Representative Fran Ulmer and  
Senate State Affairs Committee

My name is Jenny Camille. As a former battered woman I strongly support House Bill 44. Dating relationships should have the same rights to file for DVI's as any domestic violence victims. I believe that people of any age should be able to be protected from any kind of abuse. I think when this bill passes there'd be more people able to speak out more freely in order to feel safe and secure.

Thank you.

A handwritten signature in cursive script that reads "Jenny Camille".

Jenny Camille

I strongly feel that the House Bill 44 should be ~~changed~~<sup>supported</sup> for the rights of a person to be able to protect themselves from a violent situation regardless if they share a cohabitant relationship. It's only fair for the people at all times in any situation to be protected by our statutes that we hold, obey and respect.

*Norma Wong*

May 1, 1991

To: Representative Fran Ulmer and  
Senate State Affairs Committee

I am writing in support of HB44. I have dealt with many victims who were in need of a DVI but not covered under the current status. I strongly urge you to pass this bill. All victims deserve the right to be protected against violence. Thank you for your time.

Sincerely,

A handwritten signature in cursive script that reads "Michele Hall". The signature is written in dark ink and is positioned above the typed name.

Michele Hall

May 1, 1991

To: Representative Fran Ulmer and  
Senate State Affairs Committee

I support House Bill 44. I believe that a person who is dating an abusive person has a right to be protected.

I believe that everybody whether they are married, living together, or in a dating relationship have a right to be protected. I believe that the portion of the bill that orders batterers to go to alternatives to aggression counseling will help them to see their behaviors and do something about it, before the next woman dies.

*Winnie Kelly*

Winnie Kelly



# Alaska State Legislature

Please enter into the record my testimony to the (S) State Affairs  
committee name

committee on HB 44, dated May 1, 1991  
bill/subject

Signed: Lauree Kugonin, Alice Criswell, Winnie Kelly, Jenny Cassille

Testifier

Norma Wong, Michelle Hall

Representing (Optional)

c/o TWC, Bethel, AK 99559

Address

(907) 543 3455

Phone No.

# Alaska State Legislature

## HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM  
APRIL 10, 1991

TO: Senator Pat Rodey, Chair  
Senate State Affairs Committee

FROM: Representative Fran Ulmer

SUBJECT: HB 44, "An act relating to domestic violence."

This is to request that you schedule HB 44 for hearing at the earliest possible time. 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 annually. HB 44 is an important bill which revises existing laws to improve protection of the victims of domestic violence.

### Provisions:

1. Under current law regarding harassment, the crime of harassment is committed if a person, with intent to harass or annoy, violates the conditions of a domestic violence restraining order by communicating with the petitioner. HB 44 moves that provision to a new section, entitled Violating a Domestic Violence Restraining Order, in order to make it more readily identifiable. It establishes the offense as a Class A misdemeanor. It removes the necessity for a law enforcement officer or prosecutor to prove that one intended to harass another, by stating that the crime is committed if a person knowingly violates a provision of a domestic violence restraining order.

2. Currently, the law provides that a court, in determining the conditions of a domestic violence restraining order, shall consider, among other things, ordering the defendant to participate in personal or family counseling. HB 44 provides that if the court directs personal counseling, the counseling must propose alternatives to aggression if that type of counseling is available. It also provides that if the court directs family counseling, the court will make a finding that the family counseling will not result in further domestic violence. This is an important provision, as it has been reported many times that family counseling sessions are often followed by violent episodes.

District 4B — Juneau

P.O. Box V • Juneau, Alaska 99801-3100 • (907) 465-4947

HB 44 states that if a court directs personal counseling, it is to involve alternatives to violence if that type of counseling is available-- and it says that if the court orders family counseling, the court will make a finding that family counseling will not result in additional domestic violence.

3. Current law does not include persons involved in a courtship, engagement or dating relationship in the list of parties eligible to obtain domestic violence restraining orders. This leaves some victims, specifically teenagers who still live with their parents, without recourse. HB 44 adds courtship, engagement and dating relationships to the list.

4. HB 44 establishes 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.

5. This bill clarifies 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.

Thank you for your prompt scheduling of this bill.

SECTIONAL ANALYSIS  
CS FOR HOUSE BILL 44 (JUDICIARY)  
APRIL 10, 1991

SECTION 1.

Moves violating a Domestic Violence Restraining Order to a new section from the harassment section so that it can be readily identified. The offense is a class A misdemeanor. The section also clarifies that the crime is committed if a person knowingly violates a provision of the restraining order. Under current law, arrests and prosecutions are not being made because it is difficult to prove that the defendant acted with "intent."

SECTION 2.

Removes section (a) (6) which established that the crime of harassment was committed if a defendant violated a restraining order baring communication. That action will be the offense created in Bill Section 1, Violating a Domestic Violence Restraining Order.

SECTION 3.

The change in this section is technical, references the reader to the changes made in Bill Section 1.

SECTION 4.

- (lines 14 through 16) Specifies that the court, in determining conditions of release, shall consider ordering the defendant to participate in counseling. If the court directs personal counseling, the counseling must propose alternatives to aggression if that type of counseling is available. If the court directs family counseling, the court will make a finding that the family counseling will not result in further domestic violence.

- (lines 21 and 22) The change is technical to make the definition of domestic violence consistent throughout the statutes. (See AS 18.66.900 (3).)

- (lines 24 and 25) Expands the list of persons eligible to obtain domestic violence restraining orders to include persons in dating, courtship or engagement relationships.

SECTION 5.

Establishes 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.

SECTION 6.

The amendment is technical to make the definition of domestic violence consistent throughout the statutes.

SECTION 7.

The amendment is technical to make the definition of domestic violence consistent throughout the statutes.

SECTION 8.

The amendment is technical to make the definition of domestic violence consistent throughout the statutes.

SECTION 9.

The amendments are technical to correct punctuation and make this section consistent with bill section 4, regarding conditions of release.

SECTION 10.

Clarifies 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.

SECTION 11.

The amendment is made to make this section consistent with Bill Section 10.

SECTION 12.

The amendment is technical to make the definition of domestic violence consistent throughout the statutes.

SECTION 13. The change is technical, referencing the reader to the new section in Bill Section 1.

# 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

rt 2  
2 of 2  
P.O. Box 6

Community Support - Anchorage  
Homer  
Sitka

47-3370

Municipality  
of  
Anchorage



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ANCHORAGE, ALASKA 99519-6650  
(907) 343-6546

TOM FINK,  
MAYOR

DEPARTMENT OF LAW  
Office of the Prosecutor  
(310 "K" Street, Suite 508)

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FEB 13 1991

2-7-91

Mary Pete  
Council on Domestic Violence and Sexual Assault  
PO Box N  
Juneau, AK 99811-1200

Dear Ms. Pete:

I am writing in response to a letter I received from you in regard to a Domestic Violence teleconference that was held on 2-1-91. Although I was unable to attend I still wanted to express a concern/problem area that has come to my attention in my role at the Municipal Prosecutors Office.

During my interviews with domestic violence victims regarding criminal assault cases I often hear about their inability to obtain a writ if they have not lived with the defendant. Although it appears that this issue is being addressed in HB 44 I would like to express my support for it and hope that it will be revised.

Sincerely,

Michele Hailey MSW  
Victim-Witness Coordinator  
343-6546



# CITY OF HOMER

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February 6, 1991

Rep. Fran Ulmer  
State of Alaska, House of Representatives  
P.O. Box V  
Juneau, AK 99811-3100

Representative Ulmer;

I am writing in support of House Bill 44. For a number of years the law enforcement community on the Kenai Peninsula has been frustrated by problems with the harassment statute as it applies to enforcing violations of domestic violence restraining orders. I believe that the district attorney's office shares our frustrations. Because the statute that applies to violation of domestic violence restraining orders was added on to the existing harassment statute there has been a problem with the requirement that the State prove an intent to harass or annoy anytime a suspect is charged with violating a domestic violence restraining order. We feel that this is an unnecessary burden and frequently makes it difficult to prosecute people who otherwise blatantly violate court orders in these cases. I believe that this language in the statute frequently defeats the purpose of the law. We support making violation of domestic violence restraining orders a separate crime and having these violations classed as an A misdemeanor. Violations of the current harassment statute are B misdemeanors and the maximum penalty is 90 days in jail. This sends a message to the perpetrators, the police and the courts that this is the least serious type of criminal conduct. In fact, I believe that violation of domestic violence restraining orders is serious criminal conduct and there have been a number of cases within our community that bear this out. In 1989 a man with a history of domestic violence was convicted five times of violating domestic violence restraining orders (involving the same victim, a spouse) and never received any jail time for the actual offense of violating the domestic violence restraining orders. The violence culminated in the murder of the ex-wife's new boyfriend and the attempted murder of the ex-wife. There is an additional problem with the restraining order violation statute remaining in the harassment law. When we go to court for arraignment or sentencing on a restraining order violation we need to know if the defendant has had prior convictions or arrests for this type of conduct.

Rep. Fran Ulmer  
Feb. 6, 1991  
Page 2

Because of the way the APSIN computer system is programmed when we obtain a criminal history print out on a defendant we are only able to read the arrest or conviction for an overall title of crime, i.e. harassment, without any information about the underlying subsection that the defendant was charged under. This means that we can't tell if a defendant has any prior convictions or arrests for violating domestic violence restraining orders. Creating a new section for violating domestic violence restraining orders would cure this problem.

I also support adding a new section within the misconduct involving weapons law that would create a specific violation for defendants who are armed with a deadly weapon when they violate a domestic violence restraining order. We have also encountered a number of these type of cases in the community and it certainly seems appropriate to charge a specific offense related to the possession of a deadly weapon during the commission of these crimes.

Under section 3 of your proposed legislation I also support changing the wording in Alaska Statute 12.30.025 subsection (4) to take out any reference to family counseling or family mediation.

Under section 7 and 8 of the legislation I strongly endorse changing the language to include other family members not currently included in the statute and also victims who have been in a dating, courtship or engagement relationship with the person who committed the crime. We recently had a situation involving a seventeen year old who was sexually assaulted by a nineteen year old and the victim was unable to obtain a domestic violence restraining order because the two people had only been in a dating relationship.

Thank you for sponsoring this much needed legislation and I would be happy to comment further if you think it would be helpful.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Klamser', with a long horizontal flourish extending to the right.

Andy Klamser  
Investigations Supervisor

***FAMILY VIOLENCE***  
***IMPROVING COURT PRACTICE***

*Recommendations from  
The National Council of Juvenile  
and Family Court Judges*

*Family Violence Project*



ORGANIZED MAY 22, 1937

Other Support

*The recommendations for improving court practices in family violence cases were adopted as official policy of the National Council of Juvenile and Family Court Judges at the Annual Meeting of the General Membership in San Jose, CA on July 12, 1990.*

**RECOMMENDATIONS EDITORIAL COMMITTEE**

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The Family Violence Project of the National Council of Juvenile and Family Court Judges is supported by cooperative agreement numbers 87-SD-CX-K059 and 89-DD-CX-K001 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the U.S. Department of Justice.

13. *Judges should not mandate mediation in cases where family violence has occurred.*

Because assault of any kind is a serious crime and needs to be treated as such by the courts, mediation of family violence is simply not an appropriate response. Mediation is a process by which the parties voluntarily reach consensual agreement about the issue at hand. Violence, however, is not a subject for compromise. Thus, when the issue before the court is a request for an order of protection or a criminal family violence charge, mediation should not be mandated.

The victim receives no protection from the court with a mediated "agreement not to batter." And a process which involves both parties mediating the issue of violence implies, and allows the batterer to believe, that the victim is somehow at fault.

A more frequently occurring problem is the use of mediation for divorce-related issues in a family where one spouse has been the victim of violence from the other spouse. The pattern of power, control and dominance by the abusive spouse which emerges over time in such relationships, leaves the victim in a position of fear, dependence and weakness. Even if the mediator is aware of the situation, it may be impossible to overcome the power imbalance between the two such that any agreement reached will not truly have been voluntary.

Victims should be clearly informed of alternatives to mediation, and mediation should never be required when there has been family violence. Family court mediators should be trained to screen for violence and act to ensure the victim's safety when it is discovered. Judges should question mediated agreements presented to the court for couples who have current or recent violence, and should suggest that questionable agreements be reviewed by counsel.<sup>43</sup>

---

<sup>43</sup> See Lerman, Lisa G., Kuehl, Sheila J., and Brygger, Mary P. *Domestic Abuse and Mediation: Guidelines for Mediators and Policy Makers* Washington, D.C.: National Woman Abuse Prevention Project, 1989.

Kuehl, Sheila J. *Achieving Equal Justice for Victims of Domestic Violence. op. cit.*

# Abusive Teen Dating Relationships: An Emerging Issue for the '90s

BARRIE LEVY

Studies of high school and college students conducted during the 1980s have reported rates of dating violence ranging from 12 percent to 65 percent (Sugarman & Hoatling, 1989). Such high rates suggest that in the 1990s, researchers, policy makers, and practitioners must focus attention on this problem. Adolescent dating violence is seen by some as a stage in the intergenerational cycle of violence, linking witnessing or experiencing violence abuse during childhood to perpetrating or experiencing violence in marriage. It is seen by others as characteristic of aspects of the adolescent stage in gender, sexual, and relationships development. It is clear that preventing and confronting adolescent violence is important in preventing potential violence in future adult relationships.

As with spouse abuse, abusive teen dating relationships generally exhibit a pattern of repeated violence that escalates and increases in severity the longer the relationship continues. They are characterized—and exacerbated—by the pressures, insecurities, and romanticism of adolescence. Young people may perceive jealous and controlling behavior as loving devotion. Conformity to traditional gender roles and rigidity of expectations regarding acceptable behavior lead to a norm in relationships that include sexual coercion and physical punishment. The lack of experience with intimate relationships also leads to difficulty defining abuse as problematical.

Even if adolescents recognize the abuse, their reluctance to seek assistance from adults increases their vulnerability. Young women who attempt to seek help or to acknowledge the violence are often not taken seriously by parents, teachers, law enforcement officers, and others in authority. Too often teens expect abuse in the dating relationship to end with security of marriage or cohabitation. In actuality the abuse is more likely to continue and may worsen after marriage.

Research conducted in the 1980s cited above established the prevalence of teen dating violence. Research is needed in the 1990s to better understand the dynamics of such relationships and how and why they develop, as well as the differences between teen dating violence and marital violence. Defining its patterns will help to identify and intervene to stop violence before it escalates. The connections between dating violence and other important issues for adolescents, such as AIDS and alcohol and substance abuse must also be examined. Research should

also address the health and social consequences of teen dating violence on survivors including their subsequent marriages and families of these adolescents, and on other aspects of the lives of youth such as education and social (peer and family) networks.

Service delivery in the 1990s must include an expansion of resources available to youth in abusive relationships. Shelters, hotlines, counseling, and advocacy programs that deal with battered women often do not serve adolescents. Programs that do target adolescents often lack the awareness necessary to identify dating violence. The same is true of legal options for adolescents. Domestic violence laws and procedures are often not enforced where adolescents are concerned. For their part young people are usually unaware of legal and other resources available to them in the absence of public education efforts. Many social services limit access to people under the age of 18 unless their parents are involved. This also discourages youth from seeking help. Education and outreach is needed that will confront the norms that make violence acceptable by identifying dating violence as a problem and providing options and resources to victims.

Policy making should focus on providing prevention and intervention programs for adolescents and training for parents and those who work with youth. Schools and clinics and law enforcement agencies should be prepared to identify and deal with the problem. Studies of adult batterers (Sherman & Berk, 1984) suggest that arrest may be an effective deterrent to domestic violence. This should be explored as a strategy for dealing with teen dating violence.

## REFERENCES

- Sherman, L.W., & Berk, R.A. (1984). The specific deterrent effects of arrest for domestic assault. *American Sociological Review*, 49, 261-272.
- Sugarman, D., & Hoatling, G. (1989). Dating violence: Prevalence, context, and risk markers. In M. Pirog-Good & J. Stets (Eds.), *Violence and dating relationships: Emerging social issues*. New York: Praeger.

*Barrie Levy is a psychotherapist, consultant, and faculty member of the UCLA School of Social Welfare. She was founder and former Director of the Southern California Coalition for Battered Women and author of Skills for Violence-Free Relationships: A Curriculum for Young People. She is currently editing an anthology on teen dating violence to be published by Seal Press in the Spring of 1991.*

# 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 Wanda 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 spend 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**

December 9, 1988

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Honorable C.E. Swackhammer  
House of Representatives  
State of Alaska  
Post Office Box 407  
Soldotna, Alaska 99669

Subject: A.S. 25.35.060

Dear Representative Swackhammer:

I respectfully request your assistance as pertains to the above referenced Alaska Statute. I would like to see this definition of "domestic violence" broadened. It is my opinion that one should not have to be a so-called "family member" as outlined in A.S. 25.35.060 in order to seek injunctive relief from an individual who is or has been actively injuring another.

As an example and without going into full detail, I shall refer to a problem I encountered earlier this year. My minor daughter (16 years old) was involved in a boyfriend/girlfriend relationship with a young man (24 years old). As the relationship progressed we found out the young man had quite a temper. On several occasions he slapped her around, causing serious bodily damage requiring the services of a physician specialist from Anchorage. Charges were filed with the Police Department and the case went to court; we won, and in this particular instance justice prevailed.

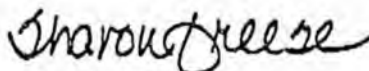
Where does the law provide for protection to others in similar circumstances?

As a concerned mother, I went to the Women's Resource Center and filled out numerous pieces of paperwork in an attempt to have a restraining order placed on this young man. I submitted the paperwork to the Court House and it was denied on the basis that "it did not fall under domestic violence per Alaska Statute 25.35.060."

I have been informed that most other states have provisions in their laws which provide this type of protection. Why don't we? It is my understanding that the only way he could have been restrained was had he practically killed her, and then what? Would he have been released on his own recognizance or on bond? Where is the protection that should be afforded to our citizens in such a case?

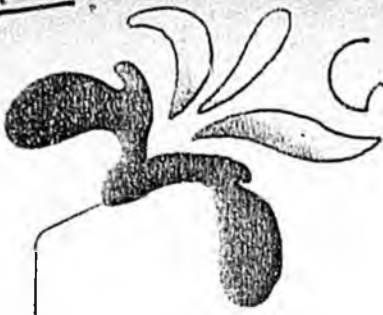
I would certainly appreciate any help you can give me in this matter. I would like to see laws on our books that gives the authority to our law enforcement people to offer assistance and protection when needed. As it stands now, there are times when their hands are tied so to speak because they can only act within the bounds of the law.

Sincerely,



Sharon Freese  
Post Office Box 3993  
Soldotna, Alaska 99669

cc: Rhonda Roberson  
District Attorney  
145 Main Street Loop  
Room 201  
Kenai, Alaska 99611



WIC-CA

March 7, 1991

Representative Fran Ulmer  
P.O. Box V  
Juneau, Alaska 99811-3100

Dear Representative Ulmer,

A few weeks ago I wrote you in support of HB44. One of my main concerns is that as restraining orders are written now, a teenaged girl is unable to obtain one to get protection from an abusive boyfriend. Teen dating violence is a reality for our young women. We must give them every protection available.

Enclosed you will find information on a recent CBS After School Special on teen dating violence. In this special the victim was able to break the cycle of abuse that she was caught in by obtaining a restraining order. Please help Alaskan teens by supporting the appropriate changes in HB44.

Sincerely,

Lisa Seger  
Community Educator

LS/mgm



## But He Loves Me

### Synopsis

**C**assie McBride has never had a boyfriend before. She isn't the most popular girl in her class and she isn't the prettiest, either. In fact, her parents are beginning to worry that she will never date at all. Then, along comes Charlie Taylor, one of the best looking boys in school, who takes a sudden interest in her. *But He Loves Me* is a groundbreaking program about how one young woman has the courage to end a destructive relationship — before it is too late.

Cassie can hardly believe her luck. When she falls in love with Charlie, he says he loves her, too. But Charlie is jealous and possessive. If he sees Cassie talking to other boys, he accuses her of being unfaithful. Cassie can't understand why he distrusts her, because she knows she has never done anything to betray him. She turns to her mother for advice, but her mom seems more concerned that Cassie won't be able to find another boyfriend than she is about questioning Charlie's behavior.

When Charlie's possessiveness escalates into violence and he hits her in front of her little brother, Cassie knows that something is very wrong with Charlie. Days later, when she tells him she wants to end the relationship, he beats her even more viciously and abandons her on a beach.

The law has to step in. Cassie and her family get a restraining order to keep Charlie away from her, but when he violates it, they have to take him to court. He gets off with probation — and starts another relationship with a young, unsuspecting girl.

*But He Loves Me* is an unflinching exploration of dating violence, a situation that research shows is happening in more than four out of ten teen relationships and which can lead to violent marriages, battered wives and abused children.

### For Discussion

**1.** Discuss the factors that helped Cassie understand early that her relationship was a poor choice and she stood to be hurt. What risks did Julia take in being honest with Cassie about her past violent relationship with Charlie? What were the physical and social dangers she faced?

**2.** How might Charlie's upbringing account for his threatening and violent behaviors? Explain why you feel he is or is not responsible for them. Debate the view that violence is an innate tendency versus a learned behavior that can be unlearned.

**3.** How did her parents complicate Cassie's situation? Identify signs or situations a parent should watch for to guide their children away from situations that lead to dating violence.

**4.** Defend or refute the following ideas: 1. If you love someone enough, you can change or control their abusive behavior. 2. Women somehow cause an abuser to act out. Discuss why most dating violence is committed by males against females.

**5.** Once you discover a relationship is harmful, what help is available in your community to help you deal with your problems as an abuser or as a battered friend? Explore hotlines, community social services and school

counseling. What are the pros and cons of seeking legal restraining orders to keep an abuser away?

**6.** Invite an expert to speak about healthy responses to date-abuse relationships. Ask for strategies that can help teens properly place blame where it belongs, avoid secrecy about abuse, admit mistakes and seek help when harm is done, and understand the options for seeking justice for physical injury.

### Resources

**But He Loves Me** is a CBS/LIBRARY OF CONGRESS "Read More About It" Project. The Library suggests:

*Coping with Dating Violence*, by Nancy N. Rue. Rosen Publishing Group, 1989.

*Recovery: How to Survive Sexual Assaults for Women, Men, Teenagers and Their Friends and Families*, by Helen Benedict. Doubleday, 1988

For these and other good books, visit your library or bookstore.

### ADDITIONAL RESOURCES

The following organizations conduct training and have print and/or audiovisual curriculum materials on dating violence and abuse:

Dating Violence Intervention Project,  
P.O. Box 530, Harvard Square Station  
Cambridge, MA 02238, 617/868-8328.

Relationship Abuse Prevention Project  
Marin Abused Women's Services, 1717  
Fifth Ave., San Rafael, CA 94901,  
415/457-2164.

Women's Center & Shelter of Greater  
Pittsburgh, P.O. Box 9024, Pittsburgh,  
PA 15224, 412/687-8017.

(cc)  
March 5, 1991  
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On the CBS Television Network  
(check local listings)

Grade level: 7-12  
Curriculum Areas: Health Education, Human  
Relations, Sociology, Psychology, Family  
Living, Counseling

