

**HB**

**314**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

DATE: 4/22/96

DATE TURNED INTO OFFICE: 5/05/96

The Finance Committee considered CS FOR HOUSE BILL NO. 314(JUD) am

Relating to domestic violence and to crime victims and witnesses; and amending Rule 613, Alaska Rules of Evidence.

and recommends:

- be replaced with S CS CS HB 314 (FIN)
- adopt previous        CS        (      )
- attached amendment(s)
- adopt Letter of Intent by        Committee
- further referral to the        Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<del>Richard Halford</del>	<del>      </del>	Roll E.C. Key	✓		
David Jolley	✓	Steve J.	✓		
		Paul & Sharon	✓		
		Best Sharp	✓	???	!!!?
Co-Chair:		Co-Chair:			
Co-Chair:		Co-Chair: Rich Halford	✓		

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
DPS (AST)	5/4/96		52.5
DPS (CDUSA)	4/24/96		55.0
DOA (OPA)	4/24/96	0	
DOC	4/23/96		55.0
DPS (Crim. Records)	4/29/96	0	

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
#6 Courts			108.5

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: SCS CSHB 314(JUD)**

Revision Date: May 4, 1996 Dept. Affected: Public Safety  
 Title: Domestic Violence Prevention and Victim Protection Act of 1996 BRU: Alaska State Troopers  
 Sponsor: Representative Parnell Component: Detachments  
 Requestor: S. Finance COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	52.5	7.5	7.5	7.5	7.5	7.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>52.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	52.5	7.5	7.5	7.5	7.5	7.5
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>52.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>	<b>7.5</b>

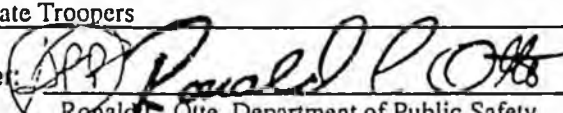
Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

See attached.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: May 4, 1996  
 Approved by Commissioner:  Date: 5/4/96  
 Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: SCS CSHB 314(JUD)

Revision Date: May 4, 1996

Dept. Affected: Public Safety

## ANALYSIS CONTINUED:

Costs of implementing the bill to the Division of Administrative Services total \$52,500 in contractual services:

600 hours of software development @ \$75 = \$45,000.

This consists of technical services for database and table modifications, screen design, software development and testing, and related systems work to create a registry of protective orders. Certain portions of the existing APSIN warrant processing software will be the base for this new functionality.

\$7,500 for increased DOA - DIS data processing chargeback expense (\$5,000 for data storage / \$2,500 for transaction processing).  
This is an annually recurring cost.

This fiscal impact is based upon the following assumptions:

A new function in the Alaska Public Safety Information Network (APSIN) is necessary to implement and maintain the "central registry of protective orders" called for in the bill. APSIN's twenty-four hour, seven days a week availability, widespread user population, and the bill's requirement that protective orders be entered into the registry within 24 hours makes the use of a centralized PC application impractical.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: SCS CSHB 314 (JUD)

Revision Date: 4/24/96 Dept. Affected: Public Safety  
 Title: Domestic Violence Prevention and Victim BRU: CDVSA  
Protection Act of 1996 Component: CDVSA  
 Sponsor: Representative Parnell  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. \_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>55.0</b>	<b>65.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other/Interagency Receipts	55.0	65.0	35.0	35.0	35.0	35.0
<b>TOTAL</b>						

Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

	1 (10 month)	1	0	0	0	0
FULL-TIME						
PART-TIME	0	0	5	5	5	5
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

Prepared By: Jayne Andreen Phone: 465-4356  
 Division: Council on Domestic Violence and Sexual Assault Date: 4/24/96  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/24/96  
 Agency: Ronald L. Otte, Dept. of Public Safety

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State of Alaska  
1996 Legislative Session

## ANALYSIS CONTINUED:

The cost to the Council for implementing the Domestic Violence Prevention and Victim Protection Act of 1996 will total \$55.0 for the first fiscal year.

A project coordinator to oversee the implementation of batterers' standards as developed by the Council, beginning in September, 1996. Range 18 position with fringe for 10 months = \$50.0

10 on-site trips to evaluate compliance of batterers' programs with standards. \$500/trip x 10 = \$5.0

This fiscal impact is based upon the following assumptions:

Implementation of the Council's Batterers Intervention Program Standards. The Council has been concerned over the past several years with the growing inconsistency between programs available for domestic violence perpetrators. Within the domestic violence movement it is understood that the only effective domestic violence offender programs must be based on a commitment to ensuring victim safety. They must hold offenders accountable for their violence, regardless of other life issues. Because this philosophy is not incorporated by many programs in Alaska, the Council worked with victim and offender service providers to develop standards for batterer's intervention programs. These standards were approved in March, 1995. The standards, as they currently exist, meet the guidelines for standards proposed within the model code. At this time, only the two programs funded in part by the Council have any requirement to abide by these standards.

The current bill requires the Court and Corrections to use batterers' programs that meet the standards established by Corrections in consultation with the Council. This will be accomplished through an RSA from Corrections to the Council. A key element to the effectiveness of batterers' programs will be the implementation of the standards for state-wide consistency. The Council will hire a range 18 project coordinator to oversee the standardization of batterers' programs. Based on information from victim services, the Council estimates that 20-25 programs currently exist. A process will be established to review compliance with the standards that will consist of policy and procedure review and on-site evaluation. The Council will produce a list of appropriate programs for use by Corrections and the court system for ordering offenders into programs. The Council estimates that the first two years of this component will entail greater oversight in implementing the standards and establishing the core group of standardized programs. Beginning in the third year the project will enter a maintenance level of oversight, thereby reducing the need for a full-time coordinator.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB314(JUD)

Revision Date: \_\_\_\_\_  
Title: "An Act relating to domestic violence..."

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

Sponsor: Representatives Parnell, Robinson, et. al.  
Requestor: Senate Judiciary

COMPONENT SERIAL NO. 43

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 96) cost: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

The bill makes the Office of Public Advocacy (OPA) responsible for providing guardian ad litem services to minors when petitions are filed on their behalf. Such petitions are currently relatively rare and will probably remain so. The vast majority of petitions will be filed on behalf of adults who seek legal protection from batterers.

However, AS 25.24.310(a) makes OPA responsible for providing guardian ad litem services in any case in which custody or visitation is an issue. Because of the long-term nature of the potential orders by judges in domestic violence cases under this new bill, it is very likely that they would want to appoint guardians ad litem as independent investigators in order to better inform their decisions regarding custody and visitation.

(continued)

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover *M. Bover*  
Agency: Administration

Date: 4/24/96

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FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB324(JUD)

ANALYSIS: (continued)

The Office of Public Advocacy previously submitted a fiscal note that totaled \$216.8 for FY 97. If the bill is modified to preclude the appointment of OPA in cases where the petition is not filed on behalf of a minor, OPA's fiscal impact would be zero.

4/24/96  
(S) F/N

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB314

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to domestic violence..... BRU: All  
 Component: \_\_\_\_\_  
 Sponsor: Senate Judiciary  
 Requester: Senate Finance COMPONENT SERIAL NO. #0694

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>55.0</b>	<b>65.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	55.0	65.0	35.0	35.0	35.0	35.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>55.0</b>	<b>65.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1	1				
PART-TIME			1	1	1	1
TEMPORARY						

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

The primary effect of this bill on the DOC will be to allow the department to clearly delineate domestic violence cases from assault related cases. It will allow the department to improve responsiveness for victim services and security as well as to offender treatment and rehabilitation.

This bill gives the Council On Domestic Violence And Sexual Assault the responsibility to establish standards for training and treatment programs. To accomplish these requirements, CDVSA will require the services of a project coordinator for 10 months beginning 9/96 and for all of FY 98. Once fully implemented, maintenance level oversight will require only a half time position. \$5.0 in travel funds is required for on site compliance evaluation.

DOC will transfer by RSA the full amount allocated for these services to the Department of Public Safety/Council On Domestic Violence and Sexual Assault.

Prepared by: \_\_\_\_\_  
 Division: Office of the Commissioner  
 Approved by Commissioner: Margaret M. Pugh Margaret Pugh  
 Agency: Department of Corrections

Phone: 465-4652  
 Date: 4/23/96  
 Date: 4/23/96

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# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:** SCS CSHB 314(JUD)

Revision Date: April 29, 1996 Dept. Affected: Public Safety  
 Title: Domestic Violence Prevention and Victim BRU: Statewide  
Protection Act of 1996 Component: Criminal Records & ID  
 Sponsor: Representative Parnell  
 Requestor: S. Finance **COMPONENT SERIAL NO.** 1190

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>CHANGE IN REVENUES ( )</b> Revenue Code	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

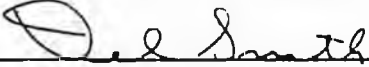
Estimate of current year (FY 95) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

No significant fiscal impact is anticipated.

Prepared By: Kenneth E. Bischoff Phone: 465-4336  
 Division: Administrative Services Date: April 29, 1996  
 Approved by Commissioner:  Date: 4-29-96  
 Agency: Ronald L. Otte, Department of Public Safety

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# FISCAL NOTE

No. 6

Bill Version: SCS(AS)B314(JWD)

I (S) Publish Date: 4/22/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: 04/22/96  
Title: Domestic violence  
Sponsor: Reps. Parnell, Robinson, Bunde, Elton...  
Requestor: \_\_\_\_\_

Dept. Affected: Alaska Court System  
BRIJ: Trial Courts  
Component: \_\_\_\_\_  
COMPONENT SERIAL NO. 788

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	66.7	66.7	66.7	66.7	66.7	66.7
TRAVEL	25.7	25.7	25.7	25.7	25.7	25.7
CONTRACTUAL	0.9					
SUPPLIES	7.2					
EQUIPMENT	8.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>108.5</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (						
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**Fund Source**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	108.5	92.4	92.4	92.4	92.4	92.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>108.5</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>

Estimate of any current year (FY 96) cost: None

**Positions**

Full-Time						
Part-Time	6.0	6.0	6.0	6.0	6.0	6.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System  
  
Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Phone: 264-8228  
Date: 04/22/96  
  
Date: 04/22/96

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Alaska Court System  
Fiscal Analysis  
SCS CSHB 314 (JUD)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Sections 8, 11 &amp; 29 (In-Person Hearing)</u>			
Superior Court Judge Pro Tem, 50% vested, PPT	\$5,737	\$3,537	\$9,274
In-Court Clerk, range 12A, PPT	2,725	1,236	3,961
(25% of current criminal filings will be affected by the bill, 1/2 of these will require a 15 minute hearing)			
<u>Section 33 (Extended Orders)</u>			
Standing Master, range 24A, PPT	17,583	6,137	23,720
In-Court Clerk, range 12A, PPT	7,813	3,544	11,357
Court Clerk II, range 10A, PPT	554	265	819
(25% of current criminal filings will result in extended orders, 1/2 will require an additional 30 minutes of hearing)			
<u>Section 33 (Peace Officer Request)</u>			
Court Clerk II, range 10A, PPT	308	147	455
(Expecting 100 additional case filings, which will require 15 minutes of clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders)</u>			
Standing Master, range 24A, PPT	2,816	983	3,799
In-Court Clerk, range 12A, PPT	1,251	568	1,819
Court Clerk II, range 10A, PPT	1,108	530	1,638
(Expecting 8% increase in case filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders (Respondent's Petition))</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
Court Clerk II, range 10A, PPT	554	265	819
(Expecting 50% increase in orders on increased filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Forms and Clerical Assistance)</u>			
Court Clerk II, range 10A, PPT	2,303	1,100	3,403
(Expecting additional clerical assistance on 25% of new filings, which will require 15 minutes of clerical time)			
<u>Section 49 (Heightened Scrutiny)</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
(10% of current dissolutions will require a 30 minute hearing)			
Estimated Total Personal Services			66,682

Travel

Section 33 (Forms and Clerical Assistance)

This legislation will require a complete revision of all domestic violence forms and instructions. The court Forms Committee will have to meet twice to accomplish the revision of the 12 existing forms. These forms are used in all superior and district courts.

5,400

This legislation requires continuing education of judicial officers and staff. The court will lengthen existing annual training conferences for judges, magistrates and clerks to accomplish this requirement. The court will use experts to conduct annual training conferences.

20,300

Estimated Total Travel

25,700

Alaska Court System  
Fiscal Analysis  
SCS CSHB 314 (JUD)

Contractual (one-time)

Postage for mailing new forms and instructions \$900

Supplies (one-time cost)

Paper and duplication supplies for new forms and instructions 7,200

Equipment (one-time cost)

Section 33 (Peace Officer Request)

20 portable tape recorders for hearings 8,000

Estimated Total Cost \$108,482

# A FAX

## Alaska State Legislature

Date: 5/05/96

To: Legal Services

Fax #: 2024 Phone #: 2450

From: Sen. Finance Committee, Jerry

Phone #: 4935

Re: please incorporate attached amendment into work draft  
SCS CSHB 314(C) your work# 9-LS 1091\T for final (FIN) version.

Many thanks!

Following this page, please find 1 pages(s). If this does not reach you in full, please inform us ASAP.



# THANK YOU.

moved Donley  
HB314

Amendment #2  
SEN FIN COMM  
SES CS HB314 BY DONLEY

If the court suggests mediation it shall advise the parties that they have the right to not agree to mediation and that their decision will not ~~be~~ <sup>be</sup> other decisions by the court.

applies 3 places in  
bill per Laurie  
Otto.

check w/  
Laurie Otto

9-LS1091V  
Luckhaupt  
5/4/96

5/4/96  
BS  
moved  
No Obj  
Adopted  
as  
mark-up  
vehicle

Conceptual  
amend. by  
Donley p. 21

SENATE CS FOR CS FOR HOUSE BILL NO. 314( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES PARNELL, Robinson, Bunde, Elton, Toohey, Ivan, Nicholia

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to domestic violence and to crime victims and witnesses;  
2 amending Rules 3, 4, 65, and 100, Alaska Rules of Civil Procedure, Rules 505  
3 and 613, Alaska Rules of Evidence, and Rule 9, Alaska Rules of Administration;  
4 and providing for an effective date."

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

6 \* Section 1. SHORT TITLE. This Act shall be known as the Domestic Violence  
7 Prevention and Victim Protection Act of 1996.

8 \* Sec. 2. AS 09.60.070(c) is amended to read:

9 (c) In this section, "serious criminal offense" means the following offenses:

- 10 (1) murder in any degree;
- 11 (2) manslaughter;
- 12 (3) criminally negligent homicide;
- 13 (4) assault in any degree;
- 14 (5) kidnapping;

- 1 (6) sexual assault in any degree;  
2 (7) sexual abuse of a minor in any degree;  
3 (8) robbery in any degree;  
4 (9) coercion;  
5 (10) extortion;  
6 (11) arson in any degree;  
7 (12) burglary in any degree;  
8 (13) criminal mischief in the first, second, or third degree;  
9 (14) driving while intoxicated or another crime resulting from the  
10 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;  
11 (15) a crime involving domestic violence, as defined in  
12 AS 18.66.990.

13 \* Sec. 3. AS 11.41.260(a) is amended to read:

14 (a) A person commits the crime of stalking in the first degree if the person  
15 violates AS 11.41.270 and

16 (1) the actions constituting the offense are in violation of an order  
17 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
18 AS 25.35.010(b) or 25.35.020;

19 (2) the actions constituting the offense are in violation of a condition  
20 of probation, release before trial, release after conviction, or parole;

21 (3) the victim is under 16 years of age;

22 (4) at any time during the course of conduct constituting the offense  
23 the defendant possessed a deadly weapon;

24 (5) the defendant has been previously convicted of a crime under this  
25 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
26 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
27 AS 11.56.740; or

28 (6) the defendant has been previously convicted of a crime, or an  
29 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
30 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of  
31 this or another jurisdiction with elements similar to a crime, or an attempt or

1 solicitation to commit a crime, under AS 11.41.100 - 1. 4, 150, 11.41.300 - 11.41.460,  
2 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

3 \* Sec. 4. AS 11.46.350(a) is amended to read:

4 (a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise,  
5 "enter or remain unlawfully" means to

6 (1) enter or remain in or upon premises or in a propelled vehicle when  
7 the premises or propelled vehicle, at the time of the entry or remaining, is not open  
8 to the public and when the defendant is not otherwise privileged to do so;

9 (2) fail to leave premises or a propelled vehicle that is open to the  
10 public after being lawfully directed to do so personally by the person in charge; or

11 (3) enter or remain upon premises or in a propelled vehicle in violation  
12 of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued  
13 under former AS 25.35.010(b) or 25.35.020.

14 \* Sec. 5. AS 11.56.740(a) is amended to read:

15 (a) A person commits the crime of violating a

16 (1) protective order if the person is subject to a protective order  
17 containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits  
18 or attempts to commit an act in violation of that provision;

19 (2) domestic violence restraining order if [(1)] the person knowingly  
20 violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or  
21 25.35.020

22 (A) restraining the person from communicating directly or  
23 indirectly with another; and

24 (B) [(2)] at the time the restraining order was issued, the court  
25 made a finding that the person had subjected another to domestic violence.

26 \* Sec. 6. AS 11.56.740 is amended by adding a new subsection to read:

27 (c) In this section, "protective order" means an order issued or filed under  
28 AS 18.66.100 - 18.66.180.

29 \* Sec. 7. AS 11.61.200(a)(8) is amended to read:

30 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining  
31 unlawfully on premises or in a propelled vehicle in violation of a provision of an order

1 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
2 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a  
3 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

4 \* Sec. 8. AS 12.25.030(b) is repealed and reenacted to read:

5 (b) In addition to the authority granted by (a) of this section, a peace officer

6 (1) shall make an arrest under the circumstances described in  
7 AS 18.65.530;

8 (2) without a warrant may arrest a person if the officer has probable  
9 cause to believe the person has, either in or outside the presence of the officer

10 (A) committed a crime involving domestic violence, whether the  
11 crime is a felony or a misdemeanor; in this subparagraph, "crime involving  
12 domestic violence" has the meaning given in AS 18.66.990;

13 (B) committed the crime of violating a protective order in  
14 violation of AS 11.56.740; or

15 (C) violated a condition of release imposed under AS 12.30.025  
16 or 12.30.027;

17 (3) without a warrant may arrest a person when the peace officer has  
18 reasonable cause for believing that the person has

19 (A) committed a crime under or violated conditions imposed as  
20 part of the person's release before trial on misdemeanor charges brought under

21 (i) AS 04.16.050 or an ordinance with similar elements;

22 or

23 (ii) AS 11.41.270;

24 (B) violated AS 04.16.050; however, unless there is a lawful  
25 reason for further detention, a person who is under the age of 18 and who has  
26 been arrested for violating AS 04.16.050 shall be cited for the offense and  
27 released to the person's parent, guardian, or legal custodian; or

28 (C) violated conditions imposed as part of the person's release  
29 before trial on felony charges brought under AS 11.41.410 - 11.41.455.

30 \* Sec. 9. AS 12.25.180(a) is amended to read:

31 (a) When a person is stopped or contacted by a peace officer for the

1 commission of a misdemeanor or the violation of a municipal ordinance, the person  
2 may, in the discretion of the contacting peace officer, be issued a citation instead of  
3 being taken before a judge or magistrate under AS 12.25.150, unless

4 (1) the person does not furnish satisfactory evidence of identity;

5 (2) the contacting officer has reasonable and probable cause to believe  
6 the person is a danger to self or others;

7 (3) the crime for which the person is contacted is one involving  
8 violence or harm to another person or to property; [OR]

9 (4) the person asks to be taken before a judge or magistrate under  
10 AS 12.25.150; or

11 (5) the peace officer has probable cause to believe the person  
12 committed a crime involving domestic violence; in this paragraph. "crime  
13 involving domestic violence" has the meaning given in AS 18.66.990.

14 \* Sec. 10. AS 12.30.025 is repealed and reenacted to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING  
16 STALKING. (a) In determining the conditions of release under AS 12.30.020 in  
17 cases involving stalking but not domestic violence, the court shall consider the  
18 following conditions and impose one or more conditions it considers reasonably  
19 necessary to protect the alleged victim of the stalking, including ordering the defendant

20 (1) not to subject the victim to further stalking;

21 (2) not to contact the victim other than through counsel;

22 (3) to engage in counseling; if the court directs the defendant to engage  
23 in personal counseling, the court shall provide in the order that the counseling must  
24 propose alternatives to aggression if that type of counseling is available;

25 (4) to refrain from the consumption of alcohol or the use of drugs.

26 (b) As used in this section,

27 (1) "domestic violence" has the meaning given in AS 18.66.990;

28 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

29 \* Sec. 11. AS 12.30 is amended by adding a new section to read:

30 Sec. 12.30.027. RELEASE IN DOMESTIC VIOLENCE CASES. (a) Before  
31 ordering release before or after trial, or pending appeal, of a person charged with or

1 convicted of a crime involving domestic violence, the court shall consider the safety  
2 of the alleged victim or other household member. To protect the alleged victim,  
3 household member, and the public and to reasonably assure the person's appearance,  
4 the court may impose bail and any of the conditions authorized under AS 12.30.020,  
5 any of the provisions of AS 18.66.100(c)(1) - (7) and (11), and any other condition  
6 necessary to protect the alleged victim, household member, and the public, and to  
7 ensure the appearance of the person in court, including ordering the person to refrain  
8 from the consumption of alcohol.

9 (b) A court may not order or permit a person released under (a) of this section  
10 to return to the residence of the alleged victim or the residence of a petitioner who has  
11 a protective order directed to the person and issued or filed under AS 18.66.100 -  
12 18.66.180.

13 (c) If the court imposes conditions of release under (a) of this section, it shall  
14 (1) issue a written order specifying the conditions of release;  
15 (2) provide a copy of the order to the person arrested or charged; and  
16 (3) immediately distribute a copy of the order to the law enforcement  
17 agency that arrested the person.

18 (d) When a person is released from custody under (a) of this section,  
19 (1) from a correctional facility, the correctional facility shall notify the  
20 prosecuting authority and the prosecuting authority shall make reasonable efforts to  
21 immediately notify the alleged victim of the release, and to furnish the alleged victim  
22 with a copy of the order setting any conditions of release;

23 (2) from other than a correctional facility, the arresting authority shall  
24 make reasonable efforts to immediately notify the alleged victim of the release, and  
25 to furnish the alleged victim with a copy of the order setting any conditions of release.

26 (e) A person arrested for a crime involving domestic violence may not be  
27 released from custody until the person has appeared in person before a judicial officer  
28 or telephonically for arraignment.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 (g) In this section, "crime involving domestic violence" has the meaning given

1 in AS 18.66.990.

2 \* **Sec. 12.** AS 12.55.015 is amended by adding a new subsection to read:

3 (g) Notwithstanding (a) of this section, the court shall order the forfeiture to  
4 the commissioner of public safety or a municipal law enforcement agency of a deadly  
5 weapon that was in the actual possession of or used by the defendant during the  
6 commission of a crime involving domestic violence.

7 \* **Sec. 13.** AS 12.55 is amended by adding a new section to read:

8 **Sec. 12.55.101. ADDITIONAL CONDITIONS OF PROBATION FOR**  
9 **DOMESTIC VIOLENCE CRIMES.** (a) Before granting probation to a person  
10 convicted of a crime involving domestic violence, the court shall consider the safety  
11 and protection of the victim and any member of the victim's family. If a person  
12 convicted of a crime involving domestic violence is placed on probation, the court may  
13 order the conditions authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11),  
14 and may

15 (1) require the defendant to participate in and complete to the  
16 satisfaction of the court one or more programs for the rehabilitation of perpetrators  
17 of domestic violence that meet the standards set by the Department of Corrections  
18 under AS 44.28.020(b), if the program is available in the community where the  
19 defendant resides;

20 (2) require the defendant to refrain from the consumption of alcohol;  
21 and

22 (3) impose any other condition necessary to protect the victim and any  
23 members of the victim's family, or to rehabilitate the defendant.

24 (b) If the defendant is not in custody, the defendant shall pay the costs of an  
25 evaluation or a program of rehabilitation ordered under (a)(1) - (3) of this section. If  
26 the defendant is in custody, the responsibility for costs shall be as provided in  
27 AS 33.30.028.

28 \* **Sec. 14.** AS 12.55.135(c) is amended to read:

29 (c) A defendant convicted of assault in the fourth degree committed in  
30 violation of the provisions of an order issued or filed under AS 18.66.100 - 18.66.180  
31 or issued under former AS 25.35.010 or 25.35.020 shall be sentenced to a minimum

1 term of imprisonment of 20 days.

2 \* Sec. 15. AS 12.55.185(3) is repealed and reenacted to read:

3 (3) "domestic violence" has the meaning given in AS 18.66.990;

4 \* Sec. 16. AS 12.61.015(a) is amended to read:

5 (a) If a victim of a felony or a crime involving domestic violence  
6 [ASSAULT] requests, the prosecuting attorney shall make a reasonable effort to

7 (1) confer with the person against whom the offense has been  
8 perpetrated about that person's testimony before the defendant's trial;

9 (2) in a manner reasonably calculated to give prompt actual notice,  
10 notify the victim

11 (A) of the defendant's conviction and the crimes of which the  
12 defendant was convicted;

13 (B) of the victim's right in a case that is a felony to make a  
14 written or oral statement for use in preparation of the defendant's presentence  
15 report, and of the victim's right to appear personally at the defendant's  
16 sentencing hearing to present a written statement and to give sworn testimony  
17 or an unsworn oral presentation;

18 (C) of the address and telephone number of the office that will  
19 prepare the presentence report; and

20 (D) of the time and place of the sentencing proceeding;

21 (3) notify the victim in writing of the final disposition of the case  
22 within 30 days after final disposition of the case;

23 (4) confer with the victim of a crime involving domestic violence  
24 concerning a proposed plea agreement before entering into an agreement.

25 \* Sec. 17. AS 12.61.120(b) is amended to read:

26 (b) If the defendant is proceeding without counsel in a case involving a  
27 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.810,  
28 AS 11.61.190 - 11.61.210, or a crime involving domestic violence, [AS 11.56.810,  
29 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a  
30 continuing threat to the victim of or witness to the offense charged, the court shall  
31 protect the address and telephone number of the victim or witness by providing the

1 information only to a person specified by the court or by imposing other restrictions  
2 that the court considers necessary. When an address or telephone number is released  
3 to a person specified by the court under this subsection, that person, who shall be  
4 ordered not to disclose the information to the defendant, shall contact the victim or  
5 witness on behalf of the defendant, and the defendant shall meet or speak with the  
6 victim or witness only in the presence of that person.

7 \* Sec. 18. AS 12.61.120(c) is amended to read:

8 (c) If a defendant or a person acting on behalf of a defendant  
9 [REPRESENTING THE DEFENDANT, INCLUDING THE DEFENDANT'S  
10 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS  
11 SECTION,] contacts the victim of an offense with which the defendant is or could be  
12 charged, the person shall clearly inform the victim

13 (1) of the person's identity and specific association with the defendant;

14 (2) that the victim does not have to talk to the person unless the victim  
15 wishes; and

16 (3) that the victim may have a prosecuting attorney or other person  
17 present during an interview.

18 \* Sec. 19. AS 12.61.120 is amended by adding new subsections to read:

19 (d) If a defendant or a person acting on behalf of a defendant wishes to make  
20 a recording of statements of the victim of an offense with which the defendant is or  
21 could be charged in this or another jurisdiction, or of a witness, the person shall, before  
22 recording begins, obtain the consent of the victim or witness to record the statement by  
23 clearly informing the victim or witness (1) of the information set out in (c) of this  
24 section, (2) that the statement will be recorded if the victim or witness consents, and (3)  
25 that the victim or witness may obtain a transcript or other copy of the recorded statement  
26 upon request. When recording begins, the person making the recording shall indicate in  
27 the recording that the victim or witness has been informed as required by this subsection,  
28 and the victim or witness shall state in the recording that consent of the victim or witness  
29 to the recording has been given.

30 (e) If a victim or witness requests a transcript or other copy of a recorded  
31 statement taken under (d) of this section, the defense shall prepare the transcript or other  
32 copy and provide it to the person whose statement was recorded.

1 (f) In this section, "recording" means capturing a statement of a person, whether  
2 by magnetic tape or other electronic or electromagnetic means.

3 \* Sec. 20. AS 12.61 is amended by adding new sections to read:

4 Sec. 12.61.125. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a)  
5 The defendant accused of a sexual offense, the defendant's counsel, or an investigator  
6 or other person acting on behalf of the defendant, may not

7 (1) notwithstanding AS 12.61.120, contact the victim of the offense or  
8 a witness to the offense if the victim or witness, or the parent or guardian of the victim  
9 or witness if the victim or witness is a minor, has informed the defendant or the  
10 defendant's counsel in writing or in person that the victim or witness does not wish to  
11 be contacted by the defense; a victim or witness who has not informed the defendant or  
12 the defendant's counsel in writing or in person that the victim does not wish to be  
13 contacted by the defense is entitled to rights as provided in AS 12.61.120;

14 (2) obtain a statement from the victim of the offense or a witness to the  
15 offense, unless,

16 (A) if the statement is taken as a recording, the recording is taken  
17 in compliance with AS 12.61.120; or

18 (B) if the statement is not taken as a recording, written  
19 authorization is first obtained from the victim or witness, or from the parent or  
20 guardian of the victim or witness if the victim or witness is a minor; the written  
21 authorization must state that the victim or witness is aware that there is no legal  
22 requirement that the victim or witness talk to the defense; a victim or witness  
23 making a statement under this subparagraph remains entitled to rights as provided  
24 in AS 12.61.120.

25 (b) A defendant who is the parent or guardian of a minor victim or witness may  
26 not provide the authorization required under (a) of the section.

27 (c) If an attorney, or a person acting on behalf of the defendant for an attorney,  
28 violates this section, the court shall refer the violation to the Disciplinary Board of the  
29 Alaska Bar Association as a grievance.

30 (d) In this section,

31 (1) "recording" has the meaning given in AS 12.61.120;

32 (2) "sexual offense" means a violation of AS 11.41.410 - 11.41.470.

1           Sec. 12.61.127. INADMISSIBILITY OF STATEMENTS TAKEN IN  
2 VIOLATION OF AS 12.61.120 or 12.61.125. A statement obtained from a victim or  
3 witness in violation of AS 12.61.120 or 12.61.125 is presumed inadmissible in a  
4 prosecution of the defendant. To overcome the presumption of inadmissibility, the  
5 defendant must prove by clear and convincing evidence that

6           (1) the statement is reliable;

7           (2) similar evidence is unavailable from any other source; and

8           (3) failure to introduce the statement would substantially undermine the  
9 reliability of the fact-finding process and result in manifest injustice.

10 \* Sec. 21. AS 12.61.900 is amended by adding new paragraphs to read:

11           (3) "crime involving domestic violence" has the meaning given in  
12 AS 18.66.990;

13           (4) "person acting on behalf of a defendant" includes the defendant's  
14 attorney, an agent of the defendant or the defendant's attorney, or a person specified by  
15 the court under AS 12.61.120(b) or an agent of that person, but does not include the  
16 defendant;

17           (5) "witness" means a person contacted in connection with a criminal  
18 case because the person may have knowledge or information about the criminal case.

19 \* Sec. 22. AS 12.62.900(22) is amended to read:

20           (22) "serious offense" means a conviction for a felony offense, a crime  
21 involving domestic violence, or a violation or attempted violation of any of the  
22 following laws, or of the laws of another jurisdiction with substantially similar  
23 elements:

24           (A) AS 11.41.410 - 11.41.470;

25           (B) AS 11.51.130(a)(1), (3), or (5);

26           (C) AS 11.61.110(a)(7);

27           (D) AS 11.66.100 - 11.66.130; or

28           (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -

29 11.40.420, if committed before January 1, 1980;

30 \* Sec. 23. AS 12.62.900 is amended by adding a new paragraph to read:

31           (24) "crime involving domestic violence" has the meaning given in  
32 AS 18.66.990.

1 \* Sec. 24. AS 18.65.240(a) is amended to read:

2 (a) A person may not be appointed as a police officer, except on a  
3 probationary basis, unless the person (1) has satisfactorily completed a basic program  
4 of police training approved by the council, which includes at least 12 hours of  
5 instruction regarding domestic violence as defined in AS 18.66.990, and (2)  
6 possesses other qualifications the council has established for the employment of police  
7 officers, including [BUT NOT LIMITED TO] minimum age, education, physical and  
8 mental standards, citizenship, moral character, and experience. The council shall  
9 prescribe the means of presenting evidence of fulfillment of these requirements.

10 \* Sec. 25. AS 18.65.242(b) is amended to read:

11 (b) The council shall

12 (1) prescribe the means of presenting evidence of fulfillment of the  
13 requirements set out in (a) of this section; and

14 (2) issue a certificate evidencing satisfaction of the requirements of (a)  
15 of this section to an applicant who

16 (A) satisfies the requirements of (a)(1) of this section; and

17 (B) meets the minimum education standards of (a)(2) of this  
18 section by satisfactorily completing a training program for correctional,  
19 probation, or parole officers established under AS 18.65.230, including  
20 training regarding domestic violence that contains the subjects set out in  
21 AS 18.66.310(d), or a course of instruction in another jurisdiction equivalent  
22 in content and quality to that required by the council for approved correctional,  
23 probation, or parole officer education and training programs in this state.

24 \* Sec. 26. AS 18.65.510 is amended to read:

25 Sec. 18.65.510. DOMESTIC VIOLENCE TRAINING. (a) Each established  
26 police training program in the state shall provide training that acquaints police officers  
27 with

28 (1) laws relating to substantive crimes and rules of criminal procedure  
29 applicable in cases involving domestic violence;

30 (2) techniques for handling incidents of domestic violence that promote  
31 the safety of the victim and the officer and that reduce the likelihood of recurrence;

1                   (3) the investigation and management of cases involving domestic  
2 violence and report writing for those cases;

3                   (4) organizations in the state that offer aid or shelter to victims of  
4 domestic violence;

5                   (5) [(4)] procedures applicable in the prosecution of cases involving  
6 domestic violence;

7                   (6) [(5)] orders that may be issued by or filed with a court under  
8 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020]; [AND]

9                   (7) [(6)] the notification to be given to victims of domestic violence  
10 under AS 18.65.520; and

11                   (8) the subjects set out in AS 18.66.310(d).

12                   (b) In providing a training program under this section, each agency or  
13 institution offering an established police training program shall consult with the  
14 Council on Domestic Violence and Sexual Assault and interested individuals and  
15 organizations providing assistance to victims of domestic violence.

16 \* Sec. 27. AS 18.65 is amended by adding a new section to read:

17                   Sec. 18.65.515. DUTIES OF PEACE OFFICER IN A CRIME INVOLVING  
18 DOMESTIC VIOLENCE. (a) A peace officer investigating a crime involving  
19 domestic violence shall protect the victim and any member of the victim's family and  
20 prevent further violence by

21                   (1) transporting an adult victim and any member of the victim's family  
22 from the place of the offense or the place of contact, to a location within the  
23 community where the offense occurred that is a shelter, a safe home, or another  
24 location in the community requested by the victim;

25                   (2) assisting the victim in removing from the residence essential items  
26 belonging to the victim, such as clothing, vehicles, medication, personal records, and  
27 legal documents;

28                   (3) assisting the victim and any member of the victim's family in  
29 obtaining medical treatment necessitated by the offense, by contacting emergency  
30 medical services or by transporting the victim to a local medical facility, if available  
31 in the community where the offense occurred; and

1 (4) providing notice of the rights of victims and services available to  
2 victims of domestic violence as provided in AS 18.65.520.

3 (b) If a peace officer investigating a crime involving domestic violence  
4 determines that it is necessary to protect the victim or the victim's family from  
5 domestic violence or to protect the officer or the public during the investigation, the  
6 officer may (1) seize a deadly weapon in plain view of the officer, and (2) if a deadly  
7 weapon was actually possessed during or used in the domestic violence, seize all  
8 deadly weapons owned, used, possessed, or within the control of the alleged  
9 perpetrator. If the weapon is not needed as evidence in a criminal case, the law  
10 enforcement agency having custody of the weapon, within 24 hours of making the  
11 determination that the weapon is not needed as evidence in a criminal case, shall make  
12 the weapon available for pickup by the owner of the weapon during regular business  
13 hours.

14 \* Sec. 28. AS 18.65.520(a) is repealed and reenacted to read:

15 (a) A peace officer investigating a crime involving domestic violence shall  
16 orally and in writing inform the victim of the rights of victims of domestic violence  
17 and the services available to them. The notice must be in substantially the following  
18 form:

19 If you are the victim of domestic violence and you believe that  
20 law enforcement protection is needed for your physical safety, you have  
21 the right to request that the officer assist in providing for your safety,  
22 including asking for an emergency protective order.

23 You may also request the officer to assist you in obtaining your  
24 essential personal belongings and locating and taking you to a safe  
25 place, including a designated meeting place or shelter, the residence of  
26 a household member or friend, or a similar place of safety. In some  
27 places in Alaska there are organizations that provide aid and shelter to  
28 victims of domestic violence. The nearest organization is located at

29 \_\_\_\_\_  
30 If you are in need of medical treatment, you may request that  
31 the officer assist you in obtaining medical treatment.

1           You may obtain information about whether the prosecuting  
2 attorney will file a criminal complaint about the domestic violence.  
3 Additionally, the victim/witness assistance program of the Department  
4 of Law may be able to help you. This information is available from the  
5 district attorney's office, which is located at \_\_\_\_\_.

6           You also have the right to file a petition in court requesting a  
7 protective order that may include any of the following provisions:

8                   (1) prohibit your abuser from threatening to commit or  
9 committing further acts of domestic violence;

10                   (2) prohibit your abuser from stalking, harassing,  
11 telephoning, contacting, or otherwise communicating with you, directly  
12 or indirectly;

13                   (3) remove your abuser from your residence;

14                   (4) order your abuser to stay away from your residence,  
15 school, place of employment, or any other specified place frequented by  
16 you or another designated household member;

17                   (5) prohibit your abuser from entering your vehicle or  
18 a vehicle you occupy;

19                   (6) prohibit your abuser from using or possessing a  
20 deadly weapon if the court finds your abuser was in the actual  
21 possession of or used a weapon during the commission of your abuse;

22                   (7) direct your abuser to surrender any firearm owned or  
23 possessed by that person if the court finds your abuser was in the actual  
24 possession of or used a firearm during the commission of your abuse;

25                   (8) request a peace officer to accompany you to your  
26 residence to ensure your safe possession of the residence, vehicle, or  
27 other items, or to ensure your safe removal of personal items from the  
28 residence;

29                   (9) award temporary custody of a minor child to the  
30 petitioner and may arrange for visitation with a minor child if the safety  
31 of the child and the petitioner can be protected;

1 (10) grant you possession and use of a vehicle and other  
2 essential personal effects;

3 (11) prohibit your abuser from consuming controlled  
4 substances;

5 (12) require your abuser to pay support for you or a  
6 minor child in your care if there is an independent legal obligation of  
7 your abuser to support you or the child;

8 (13) require your abuser to reimburse you for your  
9 expenses caused by domestic violence, including medical bills, or for  
10 your costs in getting a protective order;

11 (14) order your abuser to participate in an intervention  
12 program for batterers; and

13 (15) other relief the court determines to be necessary for  
14 your safety.

15 The forms you need to obtain a protective order are available  
16 from the nearest court. It is not necessary to have an attorney to obtain  
17 a protective order, but you may consult an attorney if you choose. If  
18 you would like help obtaining a protective order, you may contact the  
19 nearest domestic violence program located at \_\_\_\_\_. The  
20 program can also tell you about other resources available in this  
21 community for information about domestic violence, treatment of  
22 injuries, and places of safety and shelter.

23 You may also qualify for compensation from the Violent Crimes  
24 Compensation Board. The board may be contacted at \_\_\_\_\_  
25 \_\_\_\_\_.

26 \* Sec. 29. AS 18.65 is amended by adding new sections to article 6 to read:

27 Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING  
28 DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND  
29 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)  
30 of this section, a peace officer, with or without a warrant, shall arrest a person if the  
31 officer has probable cause to believe the person has, either in or outside the presence

1 of the officer, within the previous 12 hours,

2 (1) committed domestic violence, except an offense under  
3 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

4 (2) committed the crime of violating a protective order in violation of  
5 AS 11.56.740;

6 (3) violated a condition of release imposed under AS 12.30.027.

7 (b) If a peace officer receives complaints of domestic violence from more than  
8 one person arising from the same incident, the officer shall evaluate the conduct of  
9 each person to determine who was the principal physical aggressor. If the officer  
10 determines that one person was the principal physical aggressor, the other person or  
11 persons need not be arrested. In determining whether a person is a principal physical  
12 aggressor, the officer shall consider

13 (1) prior complaints of domestic violence;

14 (2) the relative severity of the injuries inflicted on each person;

15 (3) the likelihood of future injury from domestic violence to each  
16 person; and

17 (4) whether one of the persons acted in defense of self or others.

18 (c) A peace officer is not required to make an arrest under (a) of this section  
19 if the officer has received authorization not to arrest from a prosecuting attorney in the  
20 jurisdiction in which the offense under investigation arose.

21 (d) When investigating a crime involving domestic violence, a peace officer  
22 may not threaten or suggest the possible arrest of all persons involved in the same  
23 incident in a manner that would have a tendency to discourage requests for  
24 intervention by law enforcement in incidents involving domestic violence.

25 (e) In addition to the contents of any other report, a peace officer who does  
26 not make an arrest after investigating a complaint of domestic violence, or who arrests  
27 two or more persons based on the same incident, shall describe in writing the reasons  
28 for not making an arrest or for arresting more than one person.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)

1 The Department of Public Safety shall maintain a central registry of protective orders  
2 issued by or filed with a court of this state under AS 18.65.100 - 18.66.100. The  
3 registry must include for each protective order the names of the petitioner and  
4 respondent, their dates of birth, and the conditions and duration of the order. The  
5 registry shall retain a record of the protective order after it has expired.

6 (b) A peace officer receiving a protective order from a court under  
7 AS 18.66.100 - 18.66.180, a modified order issued under AS 18.66.120, or an order  
8 dismissing a protective order, must take reasonable steps to ensure that the order,  
9 modified order, or dismissal is entered into the central registry within 24 hours after  
10 being received.

11 (c) A petitioner or respondent who is the subject of a protective order may  
12 request the Department of Public Safety to correct information about the order in the  
13 central registry. The person requesting the correction has the burden of proving that  
14 the information is inaccurate or incomplete. The person may appeal an adverse  
15 decision to the court under applicable court rules for appealing the decision of an  
16 administrative agency. On appeal, the appellant has the burden of showing that the  
17 department's action was an abuse of discretion. An appeal filed under this subsection  
18 may not collaterally attack a protective order, challenge the grounds upon which the  
19 order was based, or challenge the evidence submitted in support of the order.

20 (d) The Department of Public Safety may adopt regulations to implement this  
21 section.

22 (e) A person may not bring a civil action for damages for a failure to comply  
23 with the provisions of this section.

24 Sec. 18.65.590. DEFINITION. In AS 18.65.510 - 18.65.590, "domestic  
25 violence" has the meaning given in AS 18.66.990.

26 \* Sec. 30. AS 18.65.705 is amended to read:

27 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
28 qualified to receive and hold a permit to carry a concealed handgun if the person

29 (1) is 21 years of age or older;

30 (2) is eligible to own or possess a firearm under the laws of this state  
31 and under federal law;

1 (3) has not been convicted of and is not currently charged under a  
2 complaint, information, indictment, or presentment with a felony under the laws of this  
3 state or a similar law of another jurisdiction;

4 (4) has not been convicted, within the five years immediately preceding  
5 the application, of, and is not currently charged under a complaint, information,  
6 indictment, or presentment with any of the following misdemeanor offenses or similar  
7 laws of another jurisdiction:

8 (A) AS 11.41.230, 11.41.250, 11.41.270;

9 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

10 (C) AS 11.51.130;

11 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,  
12 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,  
13 11.56.805;

14 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

15 [OR]

16 (F) AS 11.71.050, 11.71.060; ~~or~~

17 (G) a crime involving domestic violence as defined in  
18 AS 18.66.990;

19 (5) has not been convicted of two or more class A misdemeanors of  
20 this state or similar laws of another jurisdiction within the five years immediately  
21 preceding the application;

22 (6) has not within the 10 years immediately preceding the application  
23 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

24 (7) is not now suffering, and has not within the five years immediately  
25 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

26 (8) has not been adjudicated as mentally incapacitated by a court of this  
27 state, another state, territory, or jurisdiction, or of the United States, unless the  
28 guardianship or similar arrangement has been closed or terminated and five years have  
29 elapsed since the closure or other termination;

30 (9) is a resident of the state and has been for the one year immediately  
31 preceding the application for a permit;

1 (10) has not been discharged from the armed forces of the United  
2 States under dishonorable conditions;

3 (11) is not an alien who is residing in the United States illegally or a  
4 former citizen of the United States who has renounced the person's citizenship;

5 (12) is not an unlawful user of, or addicted to, a controlled substance;

6 (13) is not now the respondent in a protective order under  
7 AS 18.66.100 - 18.66.180 or the subject of an injunction under former AS 25.35.010  
8 - 25.35.020 unless the protective order or injunction has been dissolved or has  
9 expired;

10 (14) is not now in and has not in the three years immediately preceding  
11 the application been ordered by a court to complete an alcohol treatment program;

12 (15) is not now in and has not in the three years immediately preceding  
13 the application entered a substance abuse treatment program; and

14 (16) has demonstrated competence with handguns as provided in  
15 AS 18.65.715.

16 \* Sec. 31. AS 18.65.735(a) is amended to read:

17 (a) The department shall immediately suspend a permit to carry a concealed  
18 handgun if a permittee is arrested for or formally charged with a crime that would  
19 disqualify the permittee under AS 18.65.705(3) - (4) from being eligible for a permit  
20 to carry a concealed handgun, [OR] is the respondent in a protective order under  
21 AS 18.66.100 - 18.66.180, or is the subject of an injunction under former  
22 AS 25.35.010 - 25.35.020. A suspension of a permit remains in effect until the permit  
23 is revoked under AS 18.65.740, the department has been notified of a disposition  
24 favorable to the defendant or the defendant has been released from custody without  
25 being charged, or the protective order under AS 18.66.100 - 18.66.180 or the  
26 injunction under former AS 25.35.010 - 25.35.020 is dissolved or expires without  
27 being renewed. In this subsection, "disposition favorable to the defendant" means a  
28 dismissal by the prosecutor or an adjudication by a court other than a conviction or a  
29 suspended imposition of sentence.

30 \* Sec. 32. AS 18.66.050 is amended by adding new paragraphs to read:

31 (12) consult with the Department of Health and Social Services in the

1 formulation of standards and procedures for the delivery of services to victims of  
2 domestic violence by health care facilities and practitioners of healing arts and  
3 personnel in those facilities as required in AS 18.66.300;

4 (13) consult with the Alaska Police Standards Council and other police  
5 training programs in the state to develop training programs regarding domestic violence  
6 for police officers and for correction, probation, and parole officers;

7 (14) consult with public employers, the Alaska Supreme Court, school  
8 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to  
9 provide continuing education courses in domestic violence to employees.

10 \* Sec. 33. AS 18.66 is amended by adding new sections to read:

11 ARTICLE 2. PROTECTIVE ORDERS.

12 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;  
13 RELIEF. (a) A person who is or has been a victim of a crime involving domestic  
14 violence may file a petition in the district or superior court for a protective order  
15 against a household member. A parent, guardian, or other representative appointed by  
16 the court under this section, may file a petition for a protective order on behalf of a  
17 minor. The court may appoint a guardian ad litem or attorney to represent the minor.  
18 Notwithstanding AS 25.24.310 or this section, the office of public advocacy may not  
19 be appointed as a guardian ad litem or attorney for a minor in a petition filed under  
20 this section unless the petition has been filed on behalf of the minor.

21 (b) When a petition for a protective order is filed, the court shall schedule a  
22 hearing, and provide at least 10 days' notice to the respondent of the hearing and of  
23 the respondent's right to appear and be heard, either in person or by an attorney. If  
24 the court finds by a preponderance of evidence that the respondent has committed a  
25 crime involving domestic violence against the petitioner, regardless of whether the  
26 respondent appears at the hearing, the court may order any relief available under (c)  
27 of this section. The provisions of a protective order issued under this section are  
28 effective for six months unless earlier dissolved by court order.

29 (c) A protective order under this section may

30 (1) prohibit the respondent from threatening to commit or committing  
31 domestic violence;

*perpetual order*

*include stalking & harassing*

*conceptual amend  
by Donley  
w/o objection  
adopted.*

- 1 (2) prohibit the respondent from stalking or harassing the petitioner or  
2 telephoning, contacting, or otherwise communicating directly or indirectly with the  
3 petitioner;
- 4 (3) remove and exclude the respondent from the residence of the  
5 petitioner, regardless of ownership of the residence;
- 6 (4) direct the respondent to stay away from the residence, school, or  
7 place of employment of the petitioner or any specified place frequented by the  
8 petitioner or any designated household member;
- 9 (5) prohibit the respondent from entering a propelled vehicle in the  
10 possession of or occupied by the petitioner;
- 11 (6) prohibit the respondent from using or possessing a deadly weapon  
12 if the court finds the respondent was in the actual possession of or used a weapon  
13 during the commission of domestic violence;
- 14 (7) direct the respondent to surrender any firearm owned or possessed  
15 by the respondent if the court finds that the respondent was in the actual possession  
16 of or used a firearm during the commission of the domestic violence;
- 17 (8) request a peace officer to accompany the petitioner to the  
18 petitioner's residence to ensure that the petitioner
- 19 (A) safely obtains possession of the petitioner's residence,  
20 vehicle, or personal items; and
- 21 (B) is able to safely remove a vehicle or personal items from  
22 the petitioner's residence;
- 23 (9) award temporary custody of a minor child to the petitioner and may  
24 arrange for visitation with a minor child if the safety of the child and the petitioner can  
25 be protected; if visitation is allowed, the court may order visitation under the  
26 conditions provided in AS 25.20.061;
- 27 (10) give the petitioner possession and use of a vehicle and other  
28 essential personal items, regardless of ownership of the items;
- 29 (11) prohibit the respondent from consuming controlled substances;
- 30 (12) require the respondent to pay support for the petitioner or a minor  
31 child in the care of the petitioner if there is an independent legal obligation of the

1 respondent to support the petitioner or child;

2 (13) require the respondent to reimburse the petitioner or other person  
3 for expenses associated with the domestic violence, including medical expenses,  
4 counseling, shelter, and repair or replacement of damaged property;

5 (14) require the respondent to pay costs and fees incurred by the  
6 petitioner in bringing the action under this chapter;

7 (15) order the respondent, at the respondent's expense, to participate in  
8 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the  
9 standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment  
10 for the abuse of alcohol or controlled substances, or both;

11 (16) order other relief the court determines necessary to protect the  
12 petitioner or any household member.

13 (d) If the court issues a protective order under this section, it shall

14 (1) make reasonable efforts to ensure that the order is understood by  
15 the petitioner and by the respondent, if present; and

16 (2) have the order delivered to the appropriate local law enforcement  
17 agency for expedited service and for entry into the central registry of protective orders  
18 under AS 18.65.540.

19 (e) A court may not deny a petition for a protective order under this section  
20 solely because of a lapse of time between an act of domestic violence and the filing  
21 of the petition.

22 Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.

23 (a) A person who is a victim of a crime involving domestic violence may file a  
24 petition under AS 18.66.100(a) and request an *ex parte* protective order. If the court  
25 finds that the petition establishes probable cause that a crime involving domestic  
26 violence has occurred, it is necessary to protect the petitioner from domestic violence,  
27 and if the petitioner has certified to the court in writing the efforts, if any, that have  
28 been made to provide notice to the respondent, the court shall *ex parte* and without  
29 notice to the respondent issue a protective order. An *ex parte* protective order may  
30 grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An *ex*  
31 *parte* protective order expires 20 days after it is issued unless dissolved earlier by the

1 court at the request of either the petitioner or the respondent and after notice and, if  
2 requested, a hearing. If a court issues an ex parte protective order, the court shall have  
3 the order delivered to the appropriate local law enforcement agency for expedited  
4 service and for entry into the central registry of protective orders under AS 18.65.540.

5 (b) A peace officer, on behalf of and with the consent of a victim of a crime  
6 involving domestic violence, may request an emergency protective order from a  
7 judicial officer. The request may be made orally or in writing based upon the sworn  
8 statement of a peace officer, and in person or by telephone. If the court finds probable  
9 cause to believe that the victim is in immediate danger of domestic violence based on  
10 an allegation of the recent commission of a crime involving domestic violence, the  
11 court ex parte shall issue an emergency protective order. In an emergency protective  
12 order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),  
13 (10), (11), and (16). An emergency protective order expires 72 hours after it is issued  
14 unless dissolved earlier by the court at the request of the petitioner.

15 (c) A peace officer who obtains an emergency protective order under (b) of  
16 this section shall

17 (1) place the provisions of an oral order in writing on a form provided  
18 by the court and file the written order with the issuing court by the end of the judicial  
19 day after it was issued;

20 (2) provide a copy of the order to the petitioner;

21 (3) serve a copy of the order on the respondent; and

22 (4) comply with the requirements of AS 18.65.540 for ensuring that the  
23 order is entered into the central registry of protective orders under AS 18.65.540.

24 (d) A court may not deny a petition for an ex parte protective order filed under  
25 (a) of this section solely because of a lapse of time between an act of domestic  
26 violence and the filing of the petition.

27 Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either  
28 the petitioner or the respondent may request modification of a protective order. If a  
29 request is made for modification of

30 (1) an ex parte protective order under AS 18.66.110(a), the court shall  
31 schedule a hearing on three days' notice or on shorter notice as the court may

1 prescribe; the court shall hear and rule on the request in an expeditious manner; or  
2 (2) a protective order after notice and hearing under AS 18.66.100(b),  
3 the court shall schedule a hearing within 20 days after the date the request is made,  
4 except that if the court finds that the request is meritless on its face, the court may  
5 deny the request without further hearing.

6 (b) If a request for a modification is made under this section and the  
7 respondent raises an issue not raised by the petitioner, the court may allow the  
8 petitioner additional time to respond.

9 (c) If the court modifies a protective order under this section, it shall issue a  
10 modified order and shall

11 (1) make reasonable efforts to ensure that the order is understood by  
12 the petitioner and by the respondent, if present at the hearing; and

13 (2) have the order delivered to the appropriate local law enforcement  
14 agency for expedited service and for entry into the central registry of protective orders  
15 under AS 18.65.540.

16 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in  
17 a protective order issued under AS 18.66.100 - 18.66.180 is prohibited from  
18 communicating with the petitioner, excluded from the residence of the petitioner, or  
19 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an  
20 invitation by the petitioner to communicate, enter the residence or vehicle, or have  
21 other prohibited contact with the petitioner does not waive or nullify any provision in  
22 a protective order.

23 (b) A court may not grant protective orders against the petitioner and the  
24 respondent in the same action under this chapter.

25 (c) A court may not order parties into mediation or refer them to mediation  
26 for resolution of the issues arising from a petition for a protective order under  
27 AS 18.66.100 - 18.66.180.

28 (d) In addition to other required information contained in a protective order,  
29 the order must include in bold face type the following statements:

30 (1) "Violation of this order may be a misdemeanor, punishable by up  
31 to one year of incarceration and up to a \$5,000 fine";

1 (2) "If you are ordered to have no contact with the petitioner or to stay  
2 away from the petitioner's residence, vehicle, or other place designated by the court,  
3 an invitation by the petitioner to have the prohibited contact or to be present at or enter  
4 the residence, vehicle, or other place does not in any way invalidate or nullify the  
5 order."

6 (e) A protective order issued under this chapter is in addition to and not in  
7 place of any other civil or criminal remedy. A petitioner is not barred from seeking  
8 an order under AS 18.66.100 - 18.66.180 because of the existence of another civil  
9 action between the petitioner and respondent.

10 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS  
11 ISSUED IN OTHER STATES. (a) A certified copy of an unexpired protective order  
12 issued in another jurisdiction may be filed with the clerk of court in any judicial  
13 district in this state.

14 (b) A protective order filed in accordance with (a) of this section has the same  
15 effect and must be enforced in the same manner as a protective order issued by a court  
16 of this state.

17 (c) When a protective order is filed with the court under this section, the court  
18 shall have the order delivered to the appropriate local law enforcement agency for  
19 entry into the central registry of protective orders under AS 18.65.540.

20 Sec. 18.66.150. FORMS FOR PETITIONS AND ORDERS; FEES. (a) The  
21 Alaska Court System, after consulting with the Council on Domestic Violence and  
22 Sexual Assault and other interested persons and organizations, shall prepare forms for  
23 petitions, protective orders, and instructions for their use by a person seeking a  
24 protective order under this chapter. The forms must conform to the Alaska Rules of  
25 Civil Procedure, except that information on the forms may be filled in by legible  
26 handwriting.

27 (b) In addition to other information required, a petition for a protective order  
28 must include a statement of pending civil actions or domestic violence criminal actions  
29 involving either the petitioner or the respondent. While a protective order is in effect  
30 or a petition for protective order is pending, both the petitioner and respondent have  
31 a continuing duty to inform the court of pending civil actions or domestic violence

1 criminal actions involving either the petitioner or the respondent.

2 (c) The office of the clerk of each superior and district court shall make  
3 available to the public under AS 18.66.100 - 18.66.180 the forms a person seeking a  
4 protective order under AS 18.66.100 - 18.66.180 may need and instructions for the use  
5 of the forms. The clerk shall provide assistance in completing the forms and filing the  
6 forms.

7 (d) Filing fees may not be charged in any action seeking only the relief  
8 provided in this chapter.

9 Sec. 18.66.160. SERVICE OF PROCESS. (a) Process issued under this  
10 chapter shall be promptly served and executed. If process is to be served upon a  
11 person believed to be present or residing in a municipality, as defined in AS 29.71.800,  
12 or in an unincorporated community, process shall be served by a peace officer of that  
13 municipality or unincorporated community who has jurisdiction within the area of  
14 service. If a peace officer of the municipality or unincorporated community who has  
15 jurisdiction is not available, a superior court, district court, or magistrate may designate  
16 any other peace officer to serve and execute process. A state peace officer shall serve  
17 process in any area that is not within the jurisdiction of a peace officer of a  
18 municipality or unincorporated community. A peace officer shall use every reasonable  
19 means to serve process issued under this chapter.

20 (b) Service of process under (a) of this section does not preclude a petitioner  
21 from using any other available means to serve process issued under this chapter.

22 (c) Fees for service of process may not be charged in a proceeding seeking  
23 only the relief provided in this chapter.

24 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.  
25 When a court issues or accepts for filing a protective order under this chapter, it shall  
26 send a copy of the order to the appropriate local law enforcement agency. Each law  
27 enforcement agency shall establish procedures to inform peace officers of protective  
28 orders. Peace officers shall use every reasonable means to enforce a protective order  
29 issued or filed under this chapter.

30 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for  
31 damages against the state, its officers, agents, or employees, or a law enforcement

1 agency, its officers, agents, or employees for any failure to comply with the provisions  
2 of this chapter.

3 ARTICLE 3. EDUCATION AND PREVENTION.

4 Sec. 18.66.300. STANDARDS AND PROCEDURES FOR HEALTH CARE  
5 IN DOMESTIC VIOLENCE CASES. (a) The Department of Health and Social  
6 Services shall adopt standards and procedures for the delivery of services to victims  
7 of domestic violence by health care facilities and practitioners of the healing arts and  
8 personnel in those facilities. The standards and procedures shall be formulated in  
9 consultation with the Council on Domestic Violence and Sexual Assault, the  
10 Department of Commerce and Economic Development, private agencies that provide  
11 services for victims of domestic violence, and persons with expertise in providing  
12 health care and other services to victims of domestic violence.

13 (b) The Department of Health and Social Services shall make available to  
14 health care facilities and practitioners of the healing arts and personnel in those  
15 facilities a written notice of the rights of victims of domestic violence and the services  
16 available to them. The notice shall be substantially similar to the notice provided in  
17 AS 18.65.520(a).

18 (c) The Department of Health and Social Services may adopt regulations to  
19 implement and interpret this section.

20 Sec. 18.66.310. CONTINUING EDUCATION FOR PUBLIC EMPLOYEES,  
21 COURT SYSTEM EMPLOYEES, AND FOR PROSECUTING AUTHORITIES. (a)  
22 Employers of state or local public employees, including employees of public schools,  
23 shall, in consultation with the Council on Domestic Violence and Sexual Assault,  
24 provide continuing education in domestic violence for the public employees who are  
25 required by law to report abuse or neglect of children under AS 47.17.020.

26 (b) The administrative director of the Alaska Court System shall, in  
27 consultation with the Council on Domestic Violence and Sexual Assault, provide  
28 continuing education in domestic violence for judicial officers and court clerks who  
29 have contact with parties involved in domestic violence.

30 (c) The Department of Law and other prosecuting authorities in the state shall,  
31 in consultation with the Council on Domestic Violence and Sexual Assault, provide

1 continuing education in domestic violence for prosecuting attorneys and other  
2 employees who have contact with persons involved in domestic violence.

3 (d) The continuing education required under (a) - (c) of this section must  
4 include information on the following subjects:

5 (1) the nature, extent, and causes of domestic violence;

6 (2) procedures designed to promote the safety of the victim and other  
7 household members;

8 (3) resources available to victims and perpetrators of domestic violence;

9 and

10 (4) the lethality of domestic violence.

11 ARTICLE 4. GENERAL PROVISIONS.

12 Sec. 18.66.990. DEFINITIONS. In this chapter,

13 (1) "council" means the Council on Domestic Violence and Sexual  
14 Assault;

15 (2) "crisis intervention and prevention program" means a community  
16 program that provides information, education, counseling, and referral services to  
17 individuals experiencing personal crisis related to domestic violence or sexual assault  
18 and to individuals in personal or professional transition, excluding correctional half-  
19 way houses, outpatient mental health programs, and drug or alcohol rehabilitation  
20 programs;

21 (3) "domestic violence" and "crime involving domestic violence" mean  
22 one or more of the following offenses or a law or ordinance of another jurisdiction  
23 having elements similar to these offenses, or an attempt to commit the offense, by a  
24 household member against another household member:

25 (A) a crime against the person under AS 11.41;

26 (B) burglary under AS 11.46.300 - 11.46.310;

27 (C) criminal trespass under AS 11.46.320 - 11.46.330;

28 (D) arson or criminally negligent burning under AS 11.46.400 -  
29 11.46.430;

30 (E) criminal mischief under AS 11.46.480 - 11.46.486;

31 (F) terroristic threatening under AS 11.56.810;

- 1 (G) violating a domestic violence order under AS 11.56.740; or  
2 (H) harassment under AS 11.61.120(1)(2) - (4);
- 3 (4) "domestic violence program" means a program that provides  
4 services to the victims of domestic violence, their families, or perpetrators of domestic  
5 violence;
- 6 (5) "household member" includes
- 7 (A) adults or minors who are current or former spouses;  
8 (B) adults or minors who live together or who have lived  
9 together;
- 10 (C) adults or minors who are dating or who have dated;  
11 (D) adults or minors who are engaged in or who have engaged  
12 in a sexual relationship;
- 13 (E) adults or minors who are related to each other up to the  
14 fourth degree of consanguinity, whether of the whole or half blood or by  
15 adoption, computed under the rules of civil law;
- 16 (F) adults or minors who are related or formerly related by  
17 marriage;
- 18 (G) persons who have a child of the relationship; and  
19 (H) minor children of a person in a relationship that is described  
20 in (A) - (G) of this paragraph;
- 21 (6) "local community entity" means a city or borough or other political  
22 subdivision of the state, a nonprofit organization, or a combination of these;
- 23 (7) "judicial day" means any Monday through Friday that is not a state  
24 holiday and on which the court clerk's offices are officially opened to receive legal  
25 documents for filing;
- 26 (8) "petitioner" includes a person on whose behalf an emergency  
27 protective order has been requested under AS 18.66.110(b);
- 28 (9) "sexual assault" means a crime specified in AS 11.41.410 -  
29 11.41.450;
- 30 (10) "sexual assault program" means a program that provides services  
31 to the victims of sexual assault, their families, or perpetrators of sexual assault.

1 \* **Sec. 34.** AS 22.10.020(a) is amended to read:

2 (a) The superior court is the trial court of general jurisdiction, with original  
3 jurisdiction in all civil and criminal matters, including probate and guardianship of  
4 minors and incompetents. Except for a petition for a protective order [INJUNCTIVE  
5 RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR 25.35.020], an action that  
6 falls within the concurrent jurisdiction of the superior court and the district court may  
7 not be filed in the superior court, except as provided by rules of the supreme court.

8 \* **Sec. 35.** AS 22.15.030 is amended to read:

9 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has jurisdiction  
10 of civil cases, including foreign judgments filed under AS 09.30.200 and arbitration  
11 proceedings under AS 09.43.170, as follows:

12 (1) for the recovery of money or damages when the amount claimed  
13 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

14 (2) for the recovery of specific personal property, when the value of  
15 the property claimed and the damages for the detention do not exceed \$50,000;

16 (3) for the recovery of a penalty or forfeiture, whether given by statute  
17 or arising out of contract, not exceeding \$50,000;

18 (4) to give judgment without action upon the confession of the  
19 defendant for any of the cases specified in this section, except for a penalty or  
20 forfeiture imposed by statute;

21 (5) for establishing the fact of death of any person in the manner  
22 prescribed in AS 09.55.020 - 09.55.060;

23 (6) for the recovery of the possession of premises in the manner  
24 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage  
25 to the property does not exceed \$50,000;

26 (7) for the foreclosure of a lien when the amount in controversy does  
27 not exceed \$50,000;

28 (8) for the recovery of money or damages in motor vehicle tort cases  
29 when the amount claimed exclusive of costs, interest, and attorney fees does not  
30 exceed \$50,000;

31 (9) over civil actions for taking utility service and for damages to or

1 interference with a utility line filed under AS 42.20.030;

2 (10) over cases involving protective orders [INJUNCTIVE RELIEF]  
3 for domestic violence under AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020].

4 (b) Insofar as the civil jurisdiction of the district courts and the superior court  
5 is the same, the jurisdiction is concurrent. Except for a petition for a protective order  
6 [INJUNCTIVE RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR  
7 25.35.020], an action that falls within the concurrent jurisdiction of the superior court  
8 and the district court may not be filed in the superior court, except as provided by  
9 rules of the supreme court.

10 \* Sec. 36. AS 22.15.100 is amended to read:

11 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND  
12 MAGISTRATE. Each district judge and magistrate has the power

13 (1) to issue writs of habeas corpus for the purpose of inquiring into the  
14 cause of restraint of liberty, returnable before a judge of the superior court, and the  
15 same proceedings shall be had on the writ as if it had been granted by the superior  
16 court judge under the laws of the state in such cases;

17 (2) of a notary public;

18 (3) to issue marriage licenses and to solemnize marriages;

19 (4) to issue warrants of arrest, summons, and search warrants according  
20 to manner and procedure prescribed by law and the supreme court;

21 (5) to act as an examining judge or magistrate in preliminary  
22 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the  
23 release of defendants under bail;

24 (6) to act as a referee in matters and actions referred to the judge or  
25 magistrate by the superior court, with all powers conferred upon referees by laws;

26 (7) of the superior court in all respects including but not limited to  
27 contempts, attendance of witnesses, and bench warrants;

28 (8) to order the temporary detention of a minor, or take other action  
29 authorized by law or rules of procedure, in cases arising under AS 47.10, when the  
30 minor is in a condition or surrounding dangerous or injurious to the welfare of the  
31 minor or others that requires immediate action; the action may be continued in effect

1 until reviewed by the superior court in accordance with rules of procedure governing  
2 these cases;

3 (9) to issue a protective order [TEMPORARY ORDER FOR  
4 INJUNCTIVE RELIEF] in cases involving domestic violence as provided in  
5 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020];

6 (10) to review an administrative revocation of a person's driver's  
7 license or nonresident privilege to drive, and an administrative refusal to issue an  
8 original license, when designated as a hearing officer by the commissioner of public  
9 safety and with the consent of the administrative director of the state court system.

10 \* Sec. 37. AS 22.20.110 is amended to read:

11 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF  
12 APPEALS, THE SUPERIOR COURT, AND DISTRICT COURTS. When required  
13 by the supreme court, and except as otherwise provided in AS 18.66.160  
14 [AS 25.35.040], the commissioner shall serve and execute all process issued by the  
15 court of appeals, the superior court, and the district courts; attend to and wait upon  
16 grand and petit juries; maintain order; attend the sessions of the courts; and exercise  
17 the power and perform the duties concerning all matters within the jurisdiction of the  
18 courts as may be assigned. The commissioner is the executive officer of the court of  
19 appeals, the superior court, and district courts.

20 \* Sec. 38. AS 25.20.060 is amended by adding a new subsection to read:

21 (d) If the court finds that a parent or child is a victim of domestic violence,  
22 the court may order that the address and telephone number of the parent or child be  
23 kept confidential in the proceedings.

24 \* Sec. 39. AS 25.20 is amended by adding a new section to read:

25 Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC  
26 VIOLENCE. If visitation is awarded to a parent who has committed a crime involving  
27 domestic violence, against the other parent or a child of the two parents, within the  
28 five years preceding the award of visitation, the court may set conditions for the  
29 visitation, including

30 (1) the transfer of the child for visitation must occur in a protected  
31 setting;

1 (2) visitation shall be supervised by another person or agency and under  
2 specified conditions as ordered by the court;

3 (3) the perpetrator shall attend and complete, to the satisfaction of the  
4 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
5 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
6 counseling; the perpetrator shall be required to pay the costs of the program or other  
7 counseling;

8 (4) the perpetrator shall abstain from possession or consumption of  
9 alcohol or controlled substances during the visitation and for 24 hours before visitation;

10 (5) the perpetrator shall pay costs of supervised visitation as set by the  
11 court;

12 (6) the prohibition of overnight visitation;

13 (7) the perpetrator shall post a bond to the court for the return and  
14 safety of the child; and

15 (8) any other condition necessary for the safety of the child, the other  
16 parent, or other household member.

17 \* Sec. 40. AS 25.20.080(a) is amended to read:

18 (a) Except as provided in (f) and (g) of this section, at [AT] any time within  
19 30 days after a petition for child custody is filed under AS 25.20.060 the court may  
20 order the parties to submit to mediation. Each party has [SHALL HAVE] the right to  
21 challenge peremptorily one mediator appointed.

22 \* Sec. 41. AS 25.20.080 is amended by adding new subsections to read:

23 (f) The court may not order or refer parties to mediation in a proceeding  
24 concerning custody or visitation of a child if a protective order issued or filed under  
25 AS 18.66.100 - 18.66.180 is in effect. The court may not order or refer parties to  
26 mediation if a party objects on the grounds that domestic violence has occurred  
27 between the parties unless the court finds that the conditions of (g)(1) - (3) of this  
28 section are met.

29 (g) A mediator who receives a referral or order from a court to conduct  
30 mediation under (a) of this section shall evaluate whether domestic violence has  
31 occurred between the parties. A mediator may not engage in mediation when either

1 party has committed a crime involving domestic violence unless

2 (1) mediation is requested by the victim of the alleged domestic  
3 violence, or proposed by the court and agreed to by the victim;

4 (2) mediation is provided by a mediator who is trained in domestic  
5 violence in a manner that protects the safety of the victim and any household member,  
6 taking into account the results of an assessment of the potential danger posed by the  
7 perpetrator and the risk of harm to the victim; and

8 (3) the victim is permitted to have in attendance a person of the  
9 victim's choice, including an attorney.

10 \* Sec. 42. AS 25.20.110 is amended by adding a new subsection to read:

11 (c) In a proceeding involving the modification of an award for custody of a  
12 child or visitation with a child, a finding that a crime involving domestic violence has  
13 occurred since the last custody or visitation determination is a finding of change of  
14 circumstances under (a) of this section.

15 \* Sec. 43. AS 25.24.060(a) is amended to read:

16 (a) Except as provided in (f) and (g) of this section, at [AT] any time within  
17 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the  
18 action may file a motion with the court requesting mediation, for the purpose of  
19 achieving a mutually agreeable settlement in termination of the marriage. When a  
20 party moves for settlement mediation, the other party shall answer the motion on the  
21 record, and the judge may order mediation. When no request for mediation is made,  
22 the court may at any time order the parties to submit to mediation if it determines that  
23 mediation may result in a more satisfactory settlement between the parties.

24 \* Sec. 44. AS 25.24.060 is amended by adding new subsections to read:

25 (f) The court may not order or refer parties to mediation in a divorce  
26 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in  
27 effect. The court may not order or refer parties to mediation if a party objects on the  
28 grounds that domestic violence has occurred between the parties unless the court finds  
29 that the conditions of (g)(1) - (3) of this section are met.

30 (g) A mediator who receives a referral or order from a court to conduct  
31 mediation under (a) of this section shall evaluate whether domestic violence has

1 occurred between the parties. A mediator may not engage in mediation when either  
2 party has committed a crime involving domestic violence unless

3 (1) mediation is requested by the victim of the alleged domestic  
4 violence, or proposed by the court and agreed to by the victim;

5 (2) mediation is provided by a mediator who is trained in domestic  
6 violence in a manner that protects the safety of the victim and any household member,  
7 taking into account the results of an assessment of the potential danger posed by the  
8 perpetrator and the risk of harm to the victim; and

9 (3) the victim is permitted to have in attendance a person of the  
10 victim's choice, including an attorney.

11 \* **Sec. 45.** AS 25.24.140(b) is amended to read:

12 (b) During the pendency of the action, upon application, a spouse is entitled  
13 to necessary protective orders, including orders

14 (1) providing for the freedom of each spouse from the control of the  
15 other spouse;

16 (2) for protection under AS 18.66.100 - 18.66.180 [RESTRAINING  
17 EACH SPOUSE FROM SUBJECTING THE OTHER SPOUSE OR ANOTHER  
18 PERSON LIVING IN THE HOUSEHOLD TO DOMESTIC VIOLENCE,  
19 AS DEFINED IN AS 25.35.200];

20 (3) directing one spouse to vacate the marital residence or the home of  
21 the other spouse;

22 (4) restraining a spouse from communicating directly or indirectly with  
23 the other spouse;

24 (5) restraining a spouse from entering a propelled vehicle in the  
25 possession of or occupied by the other spouse; and

26 (6) prohibiting a spouse from disposing of the property of either spouse  
27 or marital property without the permission of the other spouse or a court order.

28 \* **Sec. 46.** AS 25.24.140(c) is amended to read:

29 (c) Except as provided in (d) and (e) of this section, after [AFTER] a  
30 hearing, if both parties agree, the court may also order that the parties engage in  
31 personal or family counseling or mediation. In the order, the court shall provide for

1 the payment of the costs of the counseling or mediation.

2 \* Sec. 47. AS 25.24.140 is amended by adding new subsections to read:

3 (d) The court may not order or refer parties to mediation or family counseling  
4 under (c) of this section if a protective order issued or filed under AS 18.66.100 -  
5 18.66.180 is in effect. The court may not order or refer parties to mediation or family  
6 counseling if a party objects on the grounds that domestic violence has occurred  
7 between the parties unless the court finds that the conditions of (e)(1) - (3) of this  
8 section are met.

9 (e) A mediator or family counselor who receives a referral or order from a  
10 court to conduct mediation under (c) of this section shall evaluate whether domestic  
11 violence has occurred between the parties. A mediator or family counselor may not  
12 engage in mediation when either party has committed a crime involving domestic  
13 violence unless

14 (1) mediation or family counseling is requested by the victim of the  
15 alleged domestic violence, or proposed by the court and agreed to by the victim;

16 (2) mediation or family counseling is provided by a mediator or family  
17 counselor who is trained in domestic violence in a manner that protects the safety of  
18 the victim and any household member, taking into account the results of an assessment  
19 of the potential danger posed by the perpetrator and the risk of harm to the victim; and

20 (3) the victim is permitted to have in attendance a person of the  
21 victim's choice, including an attorney.

22 \* Sec. 48. AS 25.24.210(e) is amended to read:

23 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition  
24 must state in detail the terms of the agreement between the spouses concerning the  
25 custody of children, child support, visitation, spousal maintenance and tax  
26 consequences, if any, and fair and just division of property, including retirement  
27 benefits. Agreements on spousal maintenance and property division must fairly  
28 allocate the economic effect of dissolution and take into consideration the factors listed  
29 in AS 25.24.160(a)(2) and (4). In addition, the petition must state

30 (1) the respective occupations of the petitioners;

31 (2) the income, assets, and liabilities of the respective petitioners at the

1 time of filing the petition;

2 (3) the date and place of the marriage;

3 (4) the name, date of birth, and current marital, educational, and  
4 custodial status of each child born of the marriage or adopted by the petitioners who  
5 is under the age of 19;

6 (5) whether the wife is pregnant;

7 (6) whether either petitioner requires medical care or treatment;

8 (7) whether any of the following [A DOMESTIC VIOLENCE  
9 COMPLAINT] has been issued or filed during the marriage by or regarding either  
10 spouse as defendant, participant, or respondent:

11 (A) a criminal charge of a crime involving domestic  
12 violence;

13 (B) a protective order under AS 18.66.100 - 18.66.180;

14 (C) injunctive relief under former AS 25.35.010 or  
15 25.35.020; or

16 (D) a protective order issued in another jurisdiction and  
17 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE  
18 HOUSEHOLD];

19 (8) whether either petitioner has received the advice of legal counsel  
20 regarding a divorce or dissolution;

21 (9) other facts and circumstances that the petitioners believe should be  
22 considered;

23 (10) that the petition constitutes the entire agreement between the  
24 petitioners; and

25 (11) any other relief sought by the petitioners.

26 \* Sec. 49. AS 25.24.220(h) is amended to read:

27 (h) In its examination of a petitioner under (d) of this section, the court shall  
28 use a heightened level of scrutiny of agreements if

29 (1) one party is represented by counsel and the other is not;

30 (2) there is evidence that a party committed a crime involving [A]  
31 domestic violence during the marriage or if any of the following [COMPLAINT]

1 has been issued or filed during the marriage by or regarding either spouse as  
 2 defendant, participant, or respondent:

3 (A) a criminal charge of a crime involving domestic  
 4 violence;

5 (B) a protective order under AS 18.66.100 - 18.66.180;

6 (C) injunctive relief under former AS 25.35.010 or  
 7 25.35.020; or

8 (D) a protective order issued in another jurisdiction and  
 9 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE  
 10 FAMILY OR THERE IS EVIDENCE OF DOMESTIC VIOLENCE DURING  
 11 THE MARRIAGE];

12 (3) there is a minor child of the marriage; or

13 (4) there is a patently inequitable division of the marital estate.

14 \* Sec. 50. AS 25 is amended by adding a new chapter to read:

15 CHAPTER 90. GENERAL PROVISIONS.

16 Sec. 25.90.010. DEFINITIONS. In this title, "domestic violence" and "crime  
 17 involving domestic violence" have the meanings given in AS 18.66.990.

18 \* Sec. 51. AS 33.16.120 is amended by adding a new subsection to read:

19 (g) A victim of a crime involving domestic violence shall be informed by the  
 20 board at least 30 days in advance of a scheduled hearing to review or consider  
 21 discretionary parole for a prisoner. The board shall inform the victim of any decision  
 22 to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c).  
 23 If the prisoner is to be released, the victim shall be notified of the expected date of the  
 24 release, the geographic area in which the prisoner will reside, and any other  
 25 information concerning conditions of parole that may affect the victim. The victim  
 26 shall also be informed of any changes in the conditions of parole that may affect the  
 27 victim. The board shall send the notice required to the last known address of the  
 28 victim. A person may not bring a civil action for damages for a failure to comply  
 29 with the provisions of this subsection.

30 \* Sec. 52. AS 33.16.150 is amended by adding a new subsection to read:

31 (f) In addition to other conditions of parole imposed under this section, the

1 board may impose as a condition of special medical, discretionary, or mandatory parole  
2 for a prisoner serving a term for a crime involving domestic violence (1) any of the  
3 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at  
4 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of  
5 the board, a program for the rehabilitation of perpetrators of domestic violence that  
6 meets the standards set by the department under AS 44.28.020(b); and (3) any other  
7 condition necessary to rehabilitate the prisoner. The board shall establish procedures  
8 for the exchange of information concerning the parolee with the victim and for  
9 responding to reports of nonattendance or noncompliance by the parolee with  
10 conditions imposed under this subsection.

11 \* Sec. 53. AS 33.16.220(a) is amended to read:

12 (a) The board may revoke parole if the parolee

13 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or  
14 (f); or

15 (2) has violated an order of the court to participate in or comply with  
16 the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

17 \* Sec. 54. AS 33.16.220(c) is amended to read:

18 (c) In determining whether a parole violator should be released pending a final  
19 revocation hearing, the board or its designee shall consider

20 (1) the likelihood of the parolee's appearance at a final revocation  
21 hearing;

22 (2) the seriousness of the alleged violation;

23 (3) whether the parolee presents a danger to the community; [AND]

24 (4) whether the parolee is likely to further violate conditions of parole;

25 and

26 (5) whether the parolee is on parole for a crime involving domestic  
27 violence; if the violation of the condition of parole involved an act of domestic  
28 violence, the parolee may not be released pending the final revocation hearing.

29 \* Sec. 55. AS 33.16.900 is amended by adding a new paragraph to read:

30 (13) "crime involving domestic violence" and "domestic violence" have  
31 the meanings given in AS 18.66.990.

1 \* **Sec. 56.** AS 33.20.080(b) is amended to read:

2 (b) If requested by the victim of a crime against a person, a crime involving  
3 domestic violence, or arson in the first degree, the board shall send notice of an  
4 application for executive clemency submitted by the state prisoner who was convicted  
5 of that crime. The victim may comment in writing to the board on the application for  
6 executive clemency.

7 \* **Sec. 57.** AS 33.20.080(d) is amended by adding a new paragraph to read:

8 (3) "crime involving domestic violence" has the meaning given in  
9 AS 18.66.990.

10 \* **Sec. 58.** AS 33.30.013(b) is amended to read:

11 (b) The commissioner is required to give notice of a change in the status of an  
12 offender under this section only if the victim has requested notice of the change,  
13 except that the commissioner is required to give notice, mailed to the last known  
14 address of the victim, in every case of a crime involving domestic violence.

15 \* **Sec. 59.** AS 33.30.101 is amended by adding a new subsection to read:

16 (c) The commissioner may release on furlough a prisoner convicted of a crime  
17 involving domestic violence only under conditions that would protect the victim of  
18 domestic violence or other household member.

19 \* **Sec. 60.** AS 33.30.111(f) is amended to read:

20 (f) Except as provided in (g) of this section, if [IF] the commissioner  
21 considers a prisoner convicted of a crime against a person or arson in the first degree  
22 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the  
23 commissioner shall send notice of intent to consider the prisoner for a prerelease  
24 furlough to the victim. The victim may comment in writing on the commissioner's  
25 intent to release the prisoner on a prerelease furlough status. The commissioner shall  
26 consider the victim's comments before making a final decision to release a prisoner  
27 on a prerelease furlough status. The commissioner shall make a reasonable effort to  
28 notify the victim of an intent to release the prisoner on a prerelease furlough. The  
29 notice must contain the expected date of the prisoner's release, the geographic area in  
30 which the prisoner will reside, and other pertinent information concerning the  
31 prisoner's release that may affect the victim.

1 \* **Sec. 61.** AS 33.30.111 is amended by adding a new subsection to read:

2 (g) If the commissioner considers a prisoner convicted of a crime involving  
3 domestic violence for a prerelease furlough, the commissioner shall send notice of  
4 intent to consider the prisoner for prerelease furlough to the last known address of the  
5 victim. The victim may comment in writing on the commissioner's intention to release  
6 the prisoner on a prerelease furlough. The commissioner shall consider the victim's  
7 comments, if any, before making a final decision to release the prisoner on a prerelease  
8 furlough. The commissioner shall make a reasonable effort to notify the victim of any  
9 decision to release the prisoner on the prerelease furlough. The notice must include  
10 the expected date of the furlough and any other information concerning the furlough  
11 that may affect the victim. A person may not bring a civil action for damages for a  
12 failure to comply with the provisions of this subsection.

13 \* **Sec. 62.** AS 33.30.901 is amended by adding a new paragraph to read:

14 (15) "crime involving domestic violence" has the meaning given in  
15 AS 18.66.990.

16 \* **Sec. 63.** AS 43.23.065(b) is amended to read:

17 (b) An exemption is not available under this section for permanent fund  
18 dividends taken to satisfy

19 (1) child support obligations required by court order or decision of the  
20 child support enforcement agency under AS 25.27.140 - 25.27.220;

21 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
22 or AS 47.10.080(b)(4);

23 (3) claims on defaulted scholarship loans under AS 43.23.067;

24 (4) court ordered fines;

25 (5) writs of execution under AS 09.35 of a judgment that is entered

26 (A) against a minor in a civil action to recover damages;

27 (B) under AS 34.50.020 against the parent, parents, or legal  
28 guardian of an unemancipated minor;

29 (6) a debt owed by an eligible individual to an agency of the state,  
30 unless the debt is contested and an appeal is pending, or the time limit for filing an  
31 appeal has not expired;

1                   **(7) a debt owed to a person for a program for the rehabilitation of**  
2                   **perpetrators of domestic violence required under AS 12.55.101,**  
3                   **AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).**

4 \* Sec. 64. AS 44.21.410(a)(5) is amended to read:

5                   (5) provide legal representation and guardian ad litem services under  
6 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on  
7 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or  
8 petitions for the termination of parental rights on grounds set out in  
9 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor  
10 under AS 09.55.590; in children's proceedings under AS 47.10.050(a); **in cases**  
11 **involving appointments under AS 18.66.100(a) in petitions for protective orders**  
12 **on behalf of a minor;** and in cases involving indigent persons who are entitled to  
13 representation under AS 18.85.100 and who cannot be represented by the public  
14 defender agency because of a conflict of interests;

15 \* Sec. 65. AS 44.28.020 is amended by adding a new subsection to read:

16                   (b) The department shall, with the approval of the Council on Domestic  
17 Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation  
18 programs for perpetrators of domestic violence as defined in AS 18.66.990. For  
19 purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall  
20 determine whether a program meets the standards.

21 \* Sec. 66. AS 47.17.020(a) is amended to read:

22                   (a) The following persons who, in the performance of their occupational duties,  
23 have reasonable cause to suspect that a child has suffered harm as a result of child  
24 abuse or neglect shall immediately report the harm to the nearest office of the  
25 department:

- 26                   (1) practitioners of the healing arts;
- 27                   (2) school teachers and school administrative staff members of public  
28 and private schools;
- 29                   (3) social workers;
- 30                   (4) peace officers, and officers of the Department of Corrections;
- 31                   (5) administrative officers of institutions;

- 1 (6) child care providers;
- 2 (7) paid employees of domestic violence and sexual assault programs,
- 3 and crisis intervention and prevention programs as defined in AS 18.66.990
- 4 [AS 18.66.900];
- 5 (8) paid employees of an organization that provides counseling or
- 6 treatment to individuals seeking to control their use of drugs or alcohol.

7 \* Sec. 67. AS 47.17 is amended by adding a new section to read:

8 Sec. 47.17.035. DUTIES OF DEPARTMENT IN DOMESTIC VIOLENCE

9 CASES. (a) In consultation with the Council on Domestic Violence and Sexual

10 Assault, the department shall develop written procedures for screening reports of harm

11 for abuse and neglect of a child to assess whether there is domestic violence occurring

12 within the family. The procedures must include the following factors:

13 (1) inquiry concerning the criminal records of the parents or of the

14 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the

15 child; and

16 (2) inquiry concerning the existence of protective orders issued or filed

17 under AS 18.66.100 - 18.66.180 involving either parent as a petitioner or respondent.

18 (b) If the department determines in an investigation of abuse or neglect of a

19 child that

20 (1) the child is in danger because of domestic violence or that the child

21 needs protection as a result of the presence of domestic violence in the family, the

22 department shall take appropriate steps for the protection of the child;

23 (2) a person is the victim of domestic violence, the department shall

24 provide the victim with a written notice of the rights of and services available to

25 victims of domestic violence that is substantially similar to the notice provided to

26 victims of domestic violence under AS 18.65.520.

27 (c) For purposes of obtaining access to information needed to conduct the

28 inquiries required by (a)(1) and (2) of this section, the department is a criminal justice

29 agency conducting a criminal justice activity.

30 (d) A person may not bring a civil action for damages for a failure to comply

31 with the provisions of this section.

1 (e) In this section,

2 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

3 (2) "criminal justice agency" has the meaning given in AS 12.62.900;

4 (3) "domestic violence" has the meaning given in AS 18.66.990.

5 \* Sec. 68. Rule 3, Alaska Rules of Civil Procedure, is amended by adding a new  
6 subsection to read:

7 (h) A petition or request for a protective order on domestic violence under  
8 AS 18.66 may be filed in the judicial district

9 (1) where the petitioner currently or temporarily resides;

10 (2) where the respondent resides; or

11 (3) where the domestic violence occurred.

12 \* Sec. 69. Rule 100(a), Alaska Rules of Civil Procedure, is amended to read:

13 (a) Application. At any time after a complaint is filed, a party may file a  
14 motion with the court requesting mediation for the purpose of achieving a mutually  
15 agreeable settlement. The motion must address how the mediation should be  
16 conducted as specified in paragraph (b), including the names of any acceptable  
17 mediators. **If domestic violence has occurred between the parties and mediation**  
18 **is requested in a matter covered by AS 25, mediation may only be ordered when**  
19 **permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered**  
20 **by AS 25, the [THE] court may order mediation in response to such a motion, or on**  
21 **its own motion, whenever it determines that mediation may result in an equitable**  
22 **settlement. In making this determination, the court shall [MAY] consider whether**  
23 **there is a history of domestic violence between the parties which could be expected**  
24 **to affect the fairness of the mediation process or the physical safety of the domestic**  
25 **violence victim. Mediation may not be ordered between the parties to, or in, a case**  
26 **filed under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR .020 AND CONDUCT**  
27 **WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES**  
28 **MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].**

29 \* Sec. 70. Rule 505(a)(2), Alaska Rules of Evidence, is amended to read:

30 (2) Exceptions. There is no privilege under this subdivision:

31 (A) In a civil proceeding brought by or on behalf of one spouse

1 against the other spouse; or

2 (B) In a proceeding to commit or otherwise place his spouse,  
3 the property of his spouse, or both the spouse and the property of the spouse  
4 under the control of another because of the alleged mental or physical condition  
5 of the spouse; or

6 (C) In a proceeding brought by or on behalf of a spouse to  
7 establish his competence; or

8 (D) In a proceeding in which one spouse is charged with:

9 (i) A crime against the person or the property of the  
10 other spouse or of a child of either, whether such crime was committed  
11 before or during marriage.

12 (ii) Bigamy, incest, adultery, pimping, or prostitution.

13 (iii) A crime related to abandonment of a child or  
14 nonsupport of a spouse or child.

15 (iv) A crime prior to the marriage.

16 (v) A crime involving domestic violence as defined in  
17 AS 18.66.990.

18 (E) In a proceeding involving custody of a child.

19 (F) Evidence derived from or related to a business relationship  
20 involving the spouses.

21 \* Sec. 71. AS 11.56.740(a)(2) is repealed.

22 \* Sec. 72. AS 12.25.030(d); AS 12.61.900(1); AS 18.65.520(c); AS 18.66.900;  
23 AS 25.35.010, 25.35.020, 25.35.030, 25.35.040, 25.35.050, and 25.35.200 are repealed.

24 \* Sec. 73. REVISOR'S CHANGES. The revisor of statutes is requested to remove  
25 AS 25.35.100 - 25.35.150 from AS 25 and place these provisions in AS 18, renumbered as  
26 AS 18.66.200 - 18.66.250, and as a whole described as "Article 3. Confidential  
27 Communications." The revisor is also requested to revise all statutory cross-references to  
28 these statutes.

29 \* Sec. 74. TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.  
30 A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on  
31 the effective date of sec. 72 of this Act remains in effect until it expires under the terms of

1 the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs  
2 earlier.

3 \* Sec. 75. TRANSITION: REGULATIONS. Notwithstanding secs. 81, 83, and 84 of this  
4 Act, the state agencies affected by this Act may proceed to adopt regulations necessary to  
5 implement changes affecting the state agency that are enacted by this Act. The regulations  
6 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date  
7 of the changes in law in this Act.

8 \* Sec. 76. AS 18.66.150(d) and 18.66.160(c), added by sec. 33 of this Act, have the effect  
9 of amending Rules 9(b)(11), 9(c)(3), and 9(e)(6), Alaska Rules of Administration, by  
10 eliminating filing fees and service of process fees in domestic violence actions for protective  
11 orders.

12 \* Sec. 77. AS 18.66.160, added by sec. 33 of this Act, has the effect of amending Rule 4,  
13 Alaska Rules of Civil Procedure, relating to service of process in domestic violence actions  
14 for protective orders.

15 \* Sec. 78. AS 18.66.110 - 18.66.130, added by sec. 33 of this Act, have the effect of  
16 amending Rule 65(b) - (d), Alaska Rules of Civil Procedure, relating to temporary restraining  
17 orders, the method of obtaining those orders, and the timing of those orders.

18 \* Sec. 79. AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule  
19 613, Alaska Rules of Evidence, relating to impeachment of witnesses.

20 \* Sec. 80. Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76  
21 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
22 Constitution of the State of Alaska.

23 \* Sec. 81. If secs. 68 - 70 and 76 - 79 of this Act take effect under sec. 80 of this Act,  
24 they take effect July 1, 1996.

25 \* Sec. 82. Section 75 of this Act takes effect immediately under AS 01.10.070(c).

26 \* Sec. 83. Except as provided in secs. 81, 82, and 84 of this Act, this Act takes effect  
27 July 1, 1996.

28 \* Sec. 84. Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of  
29 this Act.

SENATE CS FOR CS FOR HOUSE BILL NO. 314(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES PARNELL, Robinson, Bunde, Elton, Toohey, Ivan, Nicholia

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to domestic violence and to crime victims and witnesses;  
2 amending Rules 3, 4, 65, and 100, Alaska Rules of Civil Procedure, Rules 505  
3 and 613, Alaska Rules of Evidence, and Rule 9, Alaska Rules of Administration;  
4 and providing for an effective date."

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

6 \* Section 1. SHORT TITLE. This Act shall be known as the Domestic Violence  
7 Prevention and Victim Protection Act of 1996.

8 \* Sec. 2. AS 09.60.070(c) is amended to read:

- 9 (c) In this section, "serious criminal offense" means the following offenses:
- 10 (1) murder in any degree;
- 11 (2) manslaughter;
- 12 (3) criminally negligent homicide;
- 13 (4) assault in any degree;
- 14 (5) kidnapping;

5:30 p.m.

recalled into  
Leg. Ser. (Jerry)  
per Laurie Otto.



- 1 (6) sexual assault in any degree;
- 2 (7) sexual abuse of a minor in any degree;
- 3 (8) robbery in any degree;
- 4 (9) coercion;
- 5 (10) extortion;
- 6 (11) arson in any degree;
- 7 (12) burglary in any degree;
- 8 (13) criminal mischief in the first, second, or third degree;
- 9 (14) driving while intoxicated or another crime resulting from the
- 10 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;
- 11 (15) a crime involving domestic violence, as defined in
- 12 AS 18.66.990.

13 \* Sec. 3. AS 11.41.260(a) is amended to read:

14 (a) A person commits the crime of stalking in the first degree if the person  
15 violates AS 11.41.270 and

16 (1) the actions constituting the offense are in violation of an order  
17 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
18 AS 25.35.010(b) or 25.35.020;

19 (2) the actions constituting the offense are in violation of a condition  
20 of probation, release before trial, release after conviction, or parole;

21 (3) the victim is under 16 years of age;

22 (4) at any time during the course of conduct constituting the offense  
23 the defendant possessed a deadly weapon;

24 (5) the defendant has been previously convicted of a crime under this  
25 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
26 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
27 AS 11.56.740; or

28 (6) the defendant has been previously convicted of a crime, or an  
29 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
30 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of  
31 this or another jurisdiction with elements similar to a crime, or an attempt or

1 solicitation to commit a crime, under AS 11.41.100 - 11.41.250, 11.41.300 - 11.41.460,  
2 AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

3 \* Sec. 4. AS 11.46.350(a) is amended to read:

4 (a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise,  
5 "enter or remain unlawfully" means to

6 (1) enter or remain in or upon premises or in a propelled vehicle when  
7 the premises or propelled vehicle, at the time of the entry or remaining, is not open  
8 to the public and when the defendant is not otherwise privileged to do so;

9 (2) fail to leave premises or a propelled vehicle that is open to the  
10 public after being lawfully directed to do so personally by the person in charge; or

11 (3) enter or remain upon premises or in a propelled vehicle in violation  
12 of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued  
13 under former AS 25.35.010(b) or 25.35.020.

14 \* Sec. 5. AS 11.56.740(a) is amended to read:

15 (a) A person commits the crime of violating a

16 (1) protective order if the person is subject to a protective order  
17 containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits  
18 or attempts to commit an act in violation of that provision;

19 (2) domestic violence restraining order if [(1)] the person knowingly  
20 violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or  
21 25.35.020

22 (A) restraining the person from communicating directly or  
23 indirectly with another; and

24 (B) [(2)] at the time the restraining order was issued, the court  
25 made a finding that the person had subjected another to domestic violence.

26 \* Sec. 6. AS 11.56.740 is amended by adding a new subsection to read:

27 (c) In this section, "protective order" means an order issued or filed under  
28 AS 18.66.100 - 18.66.180.

29 \* Sec. 7. AS 11.61.200(a)(8) is amended to read:

30 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining  
31 unlawfully on premises or in a propelled vehicle in violation of a provision of an order

1 issued or filed under AS 18.66.100 - 18.66.180 or issued under former  
2 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses or the person a  
3 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

4 \* Sec. 8. AS 12.25.030(b) is repealed and reenacted to read:

5 (b) In addition to the authority granted by (a) of this section, a peace officer

6 (1) shall make an arrest under the circumstances described in  
7 AS 18.65.530;

8 (2) without a warrant may arrest a person if the officer has probable  
9 cause to believe the person has, either in or outside the presence of the officer

10 (A) committed a crime involving domestic violence, whether the  
11 crime is a felony or a misdemeanor; in this subparagraph, "crime involving  
12 domestic violence" has the meaning given in AS 18.66.990;

13 (B) committed the crime of violating a protective order in  
14 violation of AS 11.56.740; or

15 (C) violated a condition of release imposed under AS 12.30.025  
16 or 12.30.027;

17 (3) without a warrant may arrest a person when the peace officer has  
18 reasonable cause for believing that the person has

19 (A) committed a crime under or violated conditions imposed as  
20 part of the person's release before trial on misdemeanor charges brought under

21 (i) AS 04.16.050 or an ordinance with similar elements;

22 or

23 (ii) AS 11.41.270;

24 (B) violated AS 04.16.050; however, unless there is a lawful  
25 reason for further detention, a person who is under the age of 18 and who has  
26 been arrested for violating AS 04.16.050 shall be cited for the offense and  
27 released to the person's parent, guardian, or legal custodian; or

28 (C) violated conditions imposed as part of the person's release  
29 before trial on felony charges brought under AS 11.41.410 - 11.41.455.

30 \* Sec. 9. AS 12.25.180(a) is amended to read:

31 (a) When a person is stopped or contacted by a peace officer for the

1 commission of a misdemeanor or the violation of a municipal ordinance, the person  
2 may, in the discretion of the contacting peace officer, be issued a citation instead of  
3 being taken before a judge or magistrate under AS 12.25.150, unless

4 (1) the person does not furnish satisfactory evidence of identity;

5 (2) the contacting officer has reasonable and probable cause to believe  
6 the person is a danger to self or others;

7 (3) the crime for which the person is contacted is one involving  
8 violence or harm to another person or to property; [OR]

9 (4) the person asks to be taken before a judge or magistrate under  
10 AS 12.25.150; or

11 (5) the peace officer has probable cause to believe the person  
12 committed a crime involving domestic violence; in this paragraph, "crime  
13 involving domestic violence" has the meaning given in AS 18.66.990.

14 \* Sec. 10. AS 12.30.025 is repealed and reenacted to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING  
16 STALKING. (a) In determining the conditions of release under AS 12.30.020 in  
17 cases involving stalking but not domestic violence, the court shall consider the  
18 following conditions and impose one or more conditions it considers reasonably  
19 necessary to protect the alleged victim of the stalking, including ordering the defendant

20 (1) not to subject the victim to further stalking;

21 (2) not to contact the victim other than through counsel;

22 (3) to engage in counseling; if the court directs the defendant to engage  
23 in personal counseling, the court shall provide in the order that the counseling must  
24 propose alternatives to aggression if that type of counseling is available;

25 (4) to refrain from the consumption of alcohol or the use of drugs.

26 (b) As used in this section,

27 (1) "domestic violence" has the meaning given in AS 18.66.990;

28 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

29 \* Sec. 11. AS 12.30 is amended by adding a new section to read:

30 Sec. 12.30.027. RELEASE IN DOMESTIC VIOLENCE CASES. (a) Before  
31 ordering release before or after trial, or pending appeal, of a person charged with or

1 convicted of a crime involving domestic violence, the court shall consider the safety  
2 of the alleged victim or other household member. To protect the alleged victim,  
3 household member, and the public and to reasonably assure the person's appearance,  
4 the court may impose bail and any of the conditions authorized under AS 12.30.020,  
5 any of the provisions of AS 18.66.100(c)(1) - (7) and (11), and any other condition  
6 necessary to protect the alleged victim, household member, and the public, and to  
7 ensure the appearance of the person in court, including ordering the person to refrain  
8 from the consumption of alcohol.

9 (b) A court may not order or permit a person released under (a) of this section  
10 to return to the residence of the alleged victim or the residence of a petitioner who has  
11 a protective order directed to the person and issued or filed under AS 18.66.100 -  
12 18.66.180.

13 (c) If the court imposes conditions of release under (a) of this section, it shall  
14 (1) issue a written order specifying the conditions of release;  
15 (2) provide a copy of the order to the person arrested or charged; and  
16 (3) immediately distribute a copy of the order to the law enforcement  
17 agency that arrested the person.

18 (d) When a person is released from custody under (a) of this section,  
19 (1) from a correctional facility, the correctional facility shall notify the  
20 prosecuting authority and the prosecuting authority shall make reasonable efforts to  
21 immediately notify the alleged victim of the release, and to furnish the alleged victim  
22 with a copy of the order setting any conditions of release;

23 (2) from other than a correctional facility, the arresting authority shall  
24 make reasonable efforts to immediately notify the alleged victim of the release, and  
25 to furnish the alleged victim with a copy of the order setting any conditions of release.

26 (e) A person arrested for a crime involving domestic violence may not be  
27 released from custody until the person has appeared in person before a judicial officer  
28 or telephonically for arraignment.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 (g) In this section, "crime involving domestic violence" has the meaning given

1 in AS 18.66.990.

2 \* Sec. 12. AS 12.55.015 is amended by adding a new subsection to read:

3 (g) Notwithstanding (a) of this section, the court shall order the forfeiture to  
4 the commissioner of public safety or a municipal law enforcement agency of a deadly  
5 weapon that was in the actual possession of or used by the defendant during the  
6 commission of a crime involving domestic violence.

7 \* Sec. 13. AS 12.55 is amended by adding a new section to read:

8 Sec. 12.55.101. ADDITIONAL CONDITIONS OF PROBATION FOR  
9 DOMESTIC VIOLENCE CRIMES. (a) Before granting probation to a person  
10 convicted of a crime involving domestic violence, the court shall consider the safety  
11 and protection of the victim and any member of the victim's family. If a person  
12 convicted of a crime involving domestic violence is placed on probation, the court may  
13 order the conditions authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11),  
14 and may

15 (1) require the defendant to participate in and complete to the  
16 satisfaction of the court one or more programs for the rehabilitation of perpetrators  
17 of domestic violence that meet the standards set by the Department of Corrections  
18 under AS 44.28.020(b), if the program is available in the community where the  
19 defendant resides;

20 (2) require the defendant to refrain from the consumption of alcohol;  
21 and

22 (3) impose any other condition necessary to protect the victim and any  
23 members of the victim's family, or to rehabilitate the defendant.

24 (b) If the defendant is not in custody, the defendant shall pay the costs of an  
25 evaluation or a program of rehabilitation ordered under (a)(1) - (3) of this section. If  
26 the defendant is in custody, the responsibility for costs shall be as provided in  
27 AS 33.30.028.

28 \* Sec. 14. AS 12.55.135(c) is amended to read:

29 (c) A defendant convicted of assault in the fourth degree committed in  
30 violation of the provisions of an order issued or filed under AS 18.66.100 - 18.66.180  
31 or issued under former AS 25.35.010 or 25.35.020 shall be sentenced to a minimum

1 term of imprisonment of 20 days.

2 \* Sec. 15. AS 12.55.185(3) is repealed and reenacted to read:

3 (3) "domestic violence" has the meaning given in AS 18.66.990;

4 \* Sec. 16. AS 12.61.015(a) is amended to read:

5 (a) If a victim of a felony or a crime involving domestic violence  
6 [ASSAULT] requests, the prosecuting attorney shall make a reasonable effort to

7 (1) confer with the person against whom the offense has been  
8 perpetrated about that person's testimony before the defendant's trial;

9 (2) in a manner reasonably calculated to give prompt actual notice,  
10 notify the victim

11 (A) of the defendant's conviction and the crimes of which the  
12 defendant was convicted;

13 (B) of the victim's right in a case that is a felony to make a  
14 written or oral statement for use in preparation of the defendant's presentence  
15 report, and of the victim's right to appear personally at the defendant's  
16 sentencing hearing to present a written statement and to give sworn testimony  
17 or an unsworn oral presentation;

18 (C) of the address and telephone number of the office that will  
19 prepare the presentence report; and

20 (D) of the time and place of the sentencing proceeding;

21 (3) notify the victim in writing of the final disposition of the case  
22 within 30 days after final disposition of the case;

23 (4) confer with the victim of a crime involving domestic violence  
24 concerning a proposed plea agreement before entering into an agreement.

25 \* Sec. 17. AS 12.61.120(b) is amended to read:

26 (b) If the defendant is proceeding without counsel in a case involving a  
27 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.810,  
28 AS 11.61.190 - 11.61.210, or a crime involving domestic violence, [AS 11.56.810,  
29 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a  
30 continuing threat to the victim or witness to the offense charged, the court shall  
31 protect the address and telephone number of the victim or witness by providing the

1 information only to a person specified by the court or by imposing other restrictions  
2 that the court considers necessary. When an address or telephone number is released  
3 to a person specified by the court under this subsection, that person, who shall be  
4 ordered not to disclose the information to the defendant, shall contact the victim or  
5 witness on behalf of the defendant, and the defendant shall meet or speak with the  
6 victim or witness only in the presence of that person.

7 \* Sec. 18. AS 12.61.120(c) is amended to read:

8 (c) If a defendant or a person acting on behalf of a defendant  
9 [REPRESENTING THE DEFENDANT, INCLUDING THE DEFENDANT'S  
10 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS  
11 SECTION,] contacts the victim of an offense with which the defendant is or could be  
12 charged, the person shall clearly inform the victim

13 (1) of the person's identity and specific association with the defendant;

14 (2) that the victim does not have to talk to the person unless the victim  
15 wishes; and

16 (3) that the victim may have a prosecuting attorney or other person  
17 present during an interview.

18 \* Sec. 19. AS 12.61.120 is amended by adding new subsections to read:

19 (d) If a defendant or a person acting on behalf of a defendant wishes to make  
20 a recording of statements of the victim of an offense with which the defendant is or  
21 could be charged in this or another jurisdiction, or of a witness, the person shall, before  
22 recording begins, obtain the consent of the victim or witness to record the statement by  
23 clearly informing the victim or witness (1) of the information set out in (c) of this  
24 section, (2) that the statement will be recorded if the victim or witness consents, and (3)  
25 that the victim or witness may obtain a transcript or other copy of the recorded statement  
26 upon request. When recording begins, the person making the recording shall indicate in  
27 the recording that the victim or witness has been informed as required by this subsection,  
28 and the victim or witness shall state in the recording that consent of the victim or witness  
29 to the recording has been given.

30 (e) If a victim or witness requests a transcript or other copy of a recorded  
31 statement taken under (d) of this section, the defense shall prepare the transcript or other  
32 copy and provide it to the person whose statement was recorded.

1 (f) In this section, "recording" means capturing a statement of a person, whether  
2 by magnetic tape or other electronic or electromagnetic means.

3 \* Sec. 20. AS 12.61 is amended by adding new sections to read:

4 Sec. 12.61.125. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a)

5 The defendant accused of a sexual offense, the defendant's counsel, or an investigator  
6 or other person acting on behalf of the defendant, may not

7 (1) notwithstanding AS 12.61.120, contact the victim of the offense or  
8 a witness to the offense if the victim or witness, or the parent or guardian of the victim  
9 or witness if the victim or witness is a minor, has informed the defendant or the  
10 defendant's counsel in writing or in person that the victim or witness does not wish to  
11 be contacted by the defense; a victim or witness who has not informed the defendant or  
12 the defendant's counsel in writing or in person that the victim does not wish to be  
13 contacted by the defense is entitled to rights as provided in AS 12.61.120;

14 (2) obtain a statement from the victim of the offense or a witness to the  
15 offense, unless,

16 (A) if the statement is taken as a recording, the recording is taken  
17 in compliance with AS 12.61.120; or

18 (B) if the statement is not taken as a recording, written  
19 authorization is first obtained from the victim or witness, or from the parent or  
20 guardian of the victim or witness if the victim or witness is a minor; the written  
21 authorization must state that the victim or witness is aware that there is no legal  
22 requirement that the victim or witness talk to the defense; a victim or witness  
23 making a statement under this subparagraph remains entitled to rights as provided  
24 in AS 12.61.120.

25 (b) A defendant who is the parent or guardian of a minor victim or witness may  
26 not provide the authorization required under (a) of the section.

27 (c) If an attorney, or a person acting on behalf of the defendant for an attorney,  
28 violates this section, the court shall refer the violation to the Disciplinary Board of the  
29 Alaska Bar Association as a grievance.

30 (d) In this section,

31 (1) "recording" has the meaning given in AS 12.61.120;

32 (2) "sexual offense" means a violation of AS 11.41.410 - 11.41.470.

1           Sec. 12.61.127. INADMISSIBILITY OF STATEMENTS TAKEN IN  
2 VIOLATION OF AS 12.61.120 or 12.61.125. A statement obtained from a victim or  
3 witness in violation of AS 12.61.120 or 12.61.125 is presumed inadmissible in a  
4 prosecution of the defendant. To overcome the presumption of inadmissibility, the  
5 defendant must prove by clear and convincing evidence that

6           (1) the statement is reliable;

7           (2) similar evidence is unavailable from any other source; and

8           (3) failure to introduce the statement would substantially undermine the  
9 reliability of the fact-finding process and result in manifest injustice.

10 \* Sec. 21. AS 12.61.900 is amended by adding new paragraphs to read:

11           (3) "crime involving domestic violence" has the meaning given in  
12 AS 18.66.990;

13           (4) "person acting on behalf of a defendant" includes the defendant's  
14 attorney, an agent of the defendant or the defendant's attorney, or a person specified by  
15 the court under AS 12.61.120(b) or an agent of that person, but does not include the  
16 defendant;

17           (5) "witness" means a person contacted in connection with a criminal  
18 case because the person may have knowledge or information about the criminal case.

19 \* Sec. 22. AS 12.62.900(22) is amended to read:

20           (22) "serious offense" means a conviction for a felony offense, a crime  
21 involving domestic violence, or a violation or attempted violation of any of the  
22 following laws, or of the laws of another jurisdiction with substantially similar  
23 elements:

24           (A) AS 11.41.410 - 11.41.470;

25           (B) AS 11.51.130(a)(1), (3), or (5);

26           (C) AS 11.61.110(a)(7);

27           (D) AS 11.66.100 - 11.66.130; or

28           (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -  
29 11.40.420, if committed before January 1, 1980;

30 \* Sec. 23. AS 12.62.900 is amended by adding a new paragraph to read:

31           (24) "crime involving domestic violence" has the meaning given in  
32 AS 18.66.990.

1 \* Sec. 24. AS 18.65.240(a) is amended to read:

2 (a) A person may not be appointed as a police officer, except on a  
3 probationary basis, unless the person (1) has satisfactorily completed a basic program  
4 of police training approved by the council, which includes at least 12 hours of  
5 instruction regarding domestic violence as defined in AS 18.66.990, and (2)  
6 possesses other qualifications the council has established for the employment of police  
7 officers, including [BUT NOT LIMITED TO] minimum age, education, physical and  
8 mental standards, citizenship, moral character, and experience. The council shall  
9 prescribe the means of presenting evidence of fulfillment of these requirements.

10 \* Sec. 25. AS 18.65.242(b) is amended to read:

11 (b) The council shall

12 (1) prescribe the means of presenting evidence of fulfillment of the  
13 requirements set out in (a) of this section; and

14 (2) issue a certificate evidencing satisfaction of the requirements of (a)  
15 of this section to an applicant who

16 (A) satisfies the requirements of (a)(1) of this section; and

17 (B) meets the minimum education standards of (a)(2) of this  
18 section by satisfactorily completing a training program for correctional,  
19 probation, or parole officers established under AS 18.65.230, including  
20 training regarding domestic violence that contains the subjects set out in  
21 AS 18.66.310(d), or a course of instruction in another jurisdiction equivalent  
22 in content and quality to that required by the council for approved correctional,  
23 probation, or parole officer education and training programs in this state.

24 \* Sec. 26. AS 18.65.510 is amended to read:

25 Sec. 18.65.510. DOMESTIC VIOLENCE TRAINING. (a) Each established  
26 police training program in the state shall provide training that acquaints police officers  
27 with

28 (1) laws relating to substantive crimes and rules of criminal procedure  
29 applicable in cases involving domestic violence;

30 (2) techniques for handling incidents of domestic violence that promote  
31 the safety of the victim and the officer and that reduce the likelihood of recurrence;

1                   (3) the investigation and management of cases involving domestic  
2 violence and report writing for those cases;

3                   (4) organizations in the state that offer aid or shelter to victims of  
4 domestic violence;

5                   (5) [(4)] procedures applicable in the prosecution of cases involving  
6 domestic violence;

7                   (6) [(5)] orders that may be issued by or filed with a court under  
8 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020]; [AND]

9                   (7) [(6)] the notification to be given to victims of domestic violence  
10 under AS 18.65.520; and

11                   (8) the subjects set out in AS 18.66.310(d).

12                   (b) In providing a training program under this section, each agency or  
13 institution offering an established police training program shall consult with the  
14 Council on Domestic Violence and Sexual Assault and interested individuals and  
15 organizations providing assistance to victims of domestic violence.

16 \* Sec. 27. AS 18.65 is amended by adding a new section to read:

17                   Sec. 18.65.515. DUTIES OF PEACE OFFICER IN A CRIME INVOLVING  
18 DOMESTIC VIOLENCE. (a) A peace officer investigating a crime involving  
19 domestic violence shall protect the victim and any member of the victim's family and  
20 prevent further violence by

21                   (1) transporting an adult victim and any member of the victim's family  
22 from the place of the offense or the place of contact, to a location within the  
23 community where the offense occurred that is a shelter, a safe home, or another  
24 location in the community requested by the victim;

25                   (2) assisting the victim in removing from the residence essential items  
26 belonging to the victim, such as clothing, vehicles, medication, personal records, and  
27 legal documents;

28                   (3) assisting the victim and any member of the victim's family in  
29 obtaining medical treatment necessitated by the offense, by contacting emergency  
30 medical services or by transporting the victim to a local medical facility, if available  
31 in the community where the offense occurred; and

1 (4) providing notice of the rights of victims and services available to  
2 victims of domestic violence as provided in AS 18.65.520.

3 (b) If a peace officer investigating a crime involving domestic violence  
4 determines that it is necessary to protect the victim or the victim's family from  
5 domestic violence or to protect the officer or the public during the investigation, the  
6 officer may (1) seize a deadly weapon in plain view of the officer, and (2) if a deadly  
7 weapon was actually possessed during or used in the domestic violence, seize all  
8 deadly weapons owned, used, possessed, or within the control of the alleged  
9 perpetrator. If the weapon is not needed as evidence in a criminal case, the law  
10 enforcement agency having custody of the weapon, within 24 hours of making the  
11 determination that the weapon is not needed as evidence in a criminal case, shall make  
12 the weapon available for pickup by the owner of the weapon during regular business  
13 hours.

14 \* Sec. 28. AS 18.65.520(a) is repealed and reenacted to read:

15 (a) A peace officer investigating a crime involving domestic violence shall  
16 orally and in writing inform the victim of the rights of victims of domestic violence  
17 and the services available to them. The notice must be in substantially the following  
18 form:

19 If you are the victim of domestic violence and you believe that  
20 law enforcement protection is needed for your physical safety, you have  
21 the right to request that the officer assist in providing for your safety,  
22 including asking for an emergency protective order.

23 You may also request the officer to assist you in obtaining your  
24 essential personal belongings and locating and taking you to a safe  
25 place, including a designated meeting place or shelter, the residence of  
26 a household member or friend, or a similar place of safety. In some  
27 places in Alaska there are organizations that provide aid and shelter to  
28 victims of domestic violence. The nearest organization is located at

29 \_\_\_\_\_  
30 If you are in need of medical treatment, you may request that  
31 the officer assist you in obtaining medical treatment.

1           You may obtain information about whether the prosecuting  
2 attorney will file a criminal complaint about the domestic violence.  
3 Additionally, the victim/witness assistance program of the Department  
4 of Law may be able to help you. This information is available from the  
5 district attorney's office, which is located at \_\_\_\_\_.

6           You also have the right to file a petition in court requesting a  
7 protective order that may include any of the following provisions:

8                   (1) prohibit your abuser from threatening to commit or  
9 committing further acts of domestic violence;

10                   (2) prohibit your abuser from stalking, harassing,  
11 telephoning, contacting, or otherwise communicating with you, directly  
12 or indirectly;

13                   (3) remove your abuser from your residence;

14                   (4) order your abuser to stay away from your residence,  
15 school, place of employment, or any other specified place frequented by  
16 you or another designated household member;

17                   (5) prohibit your abuser from entering your vehicle or  
18 a vehicle you occupy;

19                   (6) prohibit your abuser from using or possessing a  
20 deadly weapon if the court finds your abuser was in the actual  
21 possession of or used a weapon during the commission of your abuse;

22                   (7) direct your abuser to surrender any firearm owned or  
23 possessed by that person if the court finds your abuser was in the actual  
24 possession of or used a firearm during the commission of your abuse;

25                   (8) request a peace officer to accompany you to your  
26 residence to ensure your safe possession of the residence, vehicle, or  
27 other items, or to ensure your safe removal of personal items from the  
28 residence;

29                   (9) award temporary custody of a minor child to the  
30 petitioner and may arrange for visitation with a minor child if the safety  
31 of the child and the petitioner can be protected;

1 (10) grant you possession and use of a vehicle and other  
2 essential personal effects;

3 (11) prohibit your abuser from consuming controlled  
4 substances;

5 (12) require your abuser to pay support for you or a  
6 minor child in your care if there is an independent legal obligation of  
7 your abuser to support you or the child;

8 (13) require your abuser to reimburse you for your  
9 expenses caused by domestic violence, including medical bills, or for  
10 your costs in getting a protective order;

11 (14) order your abuser to participate in an intervention  
12 program for batterers; and

13 (15) other relief the court determines to be necessary for  
14 your safety.

15 The forms you need to obtain a protective order are available  
16 from the nearest court. It is not necessary to have an attorney to obtain  
17 a protective order, but you may consult an attorney if you choose. If  
18 you would like help obtaining a protective order, you may contact the  
19 nearest domestic violence program located at \_\_\_\_\_. The  
20 program can also tell you about other resources available in this  
21 community for information about domestic violence, treatment of  
22 injuries, and places of safety and shelter.

23 You may also qualify for compensation from the Violent Crimes  
24 Compensation Board. The board may be contacted at \_\_\_\_\_

25 \_\_\_\_\_

26 \* **Sec. 29.** AS 18.65 is amended by adding new sections to article 6 to read:

27 **Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING**  
28 **DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND**  
29 **VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)**  
30 **of this section, a peace officer, with or without a warrant, shall arrest a person if the**  
31 **officer has probable cause to believe the person has, either in or outside the presence**

1 of the officer, within the previous 12 hours,

2 (1) committed domestic violence, except an offense under  
3 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

4 (2) committed the crime of violating a protective order in violation of  
5 AS 11.56.740;

6 (3) violated a condition of release imposed under AS 12.30.027.

7 (b) If a peace officer receives complaints of domestic violence from more than  
8 one person arising from the same incident, the officer shall evaluate the conduct of  
9 each person to determine who was the principal physical aggressor. If the officer  
10 determines that one person was the principal physical aggressor, the other person or  
11 persons need not be arrested. In determining whether a person is a principal physical  
12 aggressor, the officer shall consider

13 (1) prior complaints of domestic violence;

14 (2) the relative severity of the injuries inflicted on each person;

15 (3) the likelihood of future injury from domestic violence to each  
16 person; and

17 (4) whether one of the persons acted in defense of self or others.

18 (c) A peace officer is not required to make an arrest under (a) of this section  
19 if the officer has received authorization not to arrest from a prosecuting attorney in the  
20 jurisdiction in which the offense under investigation arose.

21 (d) When investigating a crime involving domestic violence, a peace officer  
22 may not threaten or suggest the possible arrest of all persons involved in the same  
23 incident in a manner that would have a tendency to discourage requests for  
24 intervention by law enforcement in incidents involving domestic violence.

25 (e) In addition to the contents of any other report, a peace officer who does  
26 not make an arrest after investigating a complaint of domestic violence, or who arrests  
27 two or more persons based on the same incident, shall describe in writing the reasons  
28 for not making an arrest or for arresting more than one person.

29 (f) A person may not bring a civil action for damages for a failure to comply  
30 with the provisions of this section.

31 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)

1 The Department of Public Safety shall maintain a central registry of protective orders  
2 issued by or filed with a court of this state under AS 18.66.100 - 18.66.180. The  
3 registry must include for each protective order the names of the petitioner and  
4 respondent, their dates of birth, and the conditions and duration of the order. The  
5 registry shall retain a record of the protective order after it has expired.

6 (b) A peace officer receiving a protective order from a court under  
7 AS 18.66.100 - 18.66.180, a modified order issued under AS 18.66.120, or an order  
8 dismissing a protective order, must take reasonable steps to ensure that the order,  
9 modified order, or dismissal is entered into the central registry within 24 hours after  
10 being received.

11 (c) A petitioner or respondent who is the subject of a protective order may  
12 request the Department of Public Safety to correct information about the order in the  
13 central registry. The person requesting the correction has the burden of proving that  
14 the information is inaccurate or incomplete. The person may appeal an adverse  
15 decision to the court under applicable court rules for appealing the decision of an  
16 administrative agency. On appeal, the appellant has the burden of showing that the  
17 department's action was an abuse of discretion. An appeal filed under this subsection  
18 may not collaterally attack a protective order, challenge the grounds upon which the  
19 order was based, or challenge the evidence submitted in support of the order.

20 (d) The Department of Public Safety may adopt regulations to implement this  
21 section.

22 (e) A person may not bring a civil action for damages for a failure to comply  
23 with the provisions of this section.

24 Sec. 18.65.590. DEFINITION. In AS 18.65.510 - 18.65.590, "domestic  
25 violence" has the meaning given in AS 18.66.990.

26 \* Sec. 30. AS 18.65.705 is amended to read:

27 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
28 qualified to receive and hold a permit to carry a concealed handgun if the person

29 (1) is 21 years of age or older;

30 (2) is eligible to own or possess a firearm under the laws of this state  
31 and under federal law;

1 (3) has not been convicted of and is not currently charged under a  
2 complaint, information, indictment, or presentment with a felony under the laws of this  
3 state or a similar law of another jurisdiction;

4 (4) has not been convicted, within the five years immediately preceding  
5 the application, of, and is not currently charged under a complaint, information,  
6 indictment, or presentment with any of the following misdemeanor offenses or similar  
7 laws of another jurisdiction:

8 (A) AS 11.41.230, 11.41.250, 11.41.270;

9 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

10 (C) AS 11.51.130;

11 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,  
12 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,  
13 11.56.805;

14 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;

15 [OR]

16 (F) AS 11.71.050, 11.71.060; or

17 (G) a crime involving domestic violence as defined in  
18 AS 18.66.990:

19 (5) has not been convicted of two or more class A misdemeanors of  
20 this state or similar laws of another jurisdiction within the five years immediately  
21 preceding the application;

22 (6) has not within the 10 years immediately preceding the application  
23 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;

24 (7) is not now suffering, and has not within the five years immediately  
25 preceding the application suffered, from a mental illness as defined in AS 47.30.915;

26 (8) has not been adjudicated as mentally incapacitated by a court of this  
27 state, another state, territory, or jurisdiction, or of the United States, unless the  
28 guardianship or similar arrangement has been closed or terminated and five years have  
29 elapsed since the closure or other termination;

30 (9) is a resident of the state and has been for the one year immediately  
31 preceding the application for a permit;

1 (10) has not been discharged from the armed forces of the United  
2 States under dishonorable conditions;

3 (11) is not an alien who is residing in the United States illegally or a  
4 former citizen of the United States who has renounced the person's citizenship;

5 (12) is not an unlawful user of, or addicted to, a controlled substance;

6 (13) is not now the respondent in a protective order under  
7 AS 18.66.100 - 18.66.180 or the subject of an injunction under former AS 25.35.010  
8 - 25.35.020 unless the protective order or injunction has been dissolved or has  
9 expired;

10 (14) is not now in and has not in the three years immediately preceding  
11 the application been ordered by a court to complete an alcohol treatment program;

12 (15) is not now in and has not in the three years immediately preceding  
13 the application entered a substance abuse treatment program; and

14 (16) has demonstrated competence with handguns as provided in  
15 AS 18.65.715.

16 \* Sec. 31. AS 18.65.735(a) is amended to read:

17 (a) The department shall immediately suspend a permit to carry a concealed  
18 handgun if a permittee is arrested for or formally charged with a crime that would  
19 disqualify the permittee under AS 18.65.705(3) - (4) from being eligible for a permit  
20 to carry a concealed handgun, [OR] is the respondent in a protective order under  
21 AS 18.66.100 - 18.66.180, or is the subject of an injunction under former  
22 AS 25.35.010 - 25.35.020. A suspension of a permit remains in effect until the permit  
23 is revoked under AS 18.65.740, the department has been notified of a disposition  
24 favorable to the defendant or the defendant has been released from custody without  
25 being charged, or the protective order under AS 18.66.100 - 18.66.180 or the  
26 injunction under former AS 25.35.010 - 25.35.020 is dissolved or expires without  
27 being renewed. In this subsection, "disposition favorable to the defendant" means a  
28 dismissal by the prosecutor or an adjudication by a court other than a conviction or a  
29 suspended imposition of sentence.

30 \* Sec. 32. AS 18.66.050 is amended by adding new paragraphs to read:

31 (12) consult with the Department of Health and Social Services in the

1 formulation of standards and procedures for the delivery of services to victims of  
2 domestic violence by health care facilities and practitioners of healing arts and  
3 personnel in those facilities as required in AS 18.66.300;

4 (13) consult with the Alaska Police Standards Council and other police  
5 training programs in the state to develop training programs regarding domestic violence  
6 for police officers and for correction, probation, and parole officers;

7 (14) consult with public employers, the Alaska Supreme Court, school  
8 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to  
9 provide continuing education courses in domestic violence to employees.

10 \* Sec. 33. AS 18.66 is amended by adding new sections to read:

11 ARTICLE 2. PROTECTIVE ORDERS.

12 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;  
13 RELIEF. (a) A person who is or has been a victim of a crime involving domestic  
14 violence may file a petition in the district or superior court for a protective order  
15 against a household member. A parent, guardian, or other representative appointed by  
16 the court under this section, may file a petition for a protective order on behalf of a  
17 minor. The court may appoint a guardian ad litem or attorney to represent the minor.  
18 Notwithstanding AS 25.24.310 or this section, the office of public advocacy may not  
19 be appointed as a guardian ad litem or attorney for a minor in a petition filed under  
20 this section unless the petition has been filed on behalf of the minor.

21 (b) When a petition for a protective order is filed, the court shall schedule a  
22 hearing, and provide at least 10 days' notice to the respondent of the hearing and of  
23 the respondent's right to appear and be heard, either in person or by an attorney. If  
24 the court finds by a preponderance of evidence that the respondent has committed a  
25 crime involving domestic violence against the petitioner, regardless of whether the  
26 respondent appears at the hearing, the court may order any relief available under (c)  
27 of this section. The provisions of a protective order issued under

28 (1) (c)(1) of this section is effective until further order of the court;

29 (2) (c)(2) - (16) of this section are effective for six months unless  
30 earlier dissolved by court order.

31 (c) A protective order under this section may

- 1 (1) prohibit the respondent from threatening to commit or committing  
2 domestic violence, stalking, or harassment;
- 3 (2) prohibit the respondent from telephoning, contacting, or otherwise  
4 communicating directly or indirectly with the petitioner;
- 5 (3) remove and exclude the respondent from the residence of the  
6 petitioner, regardless of ownership of the residence;
- 7 (4) direct the respondent to stay away from the residence, school, or  
8 place of employment of the petitioner or any specified place frequented by the  
9 petitioner or any designated household member;
- 10 (5) prohibit the respondent from entering a propelled vehicle in the  
11 possession of or occupied by the petitioner;
- 12 (6) prohibit the respondent from using or possessing a deadly weapon  
13 if the court finds the respondent was in the actual possession of or used a weapon  
14 during the commission of domestic violence;
- 15 (7) direct the respondent to surrender any firearm owned or possessed  
16 by the respondent if the court finds that the respondent was in the actual possession  
17 of or used a firearm during the commission of the domestic violence;
- 18 (8) request a peace officer to accompany the petitioner to the  
19 petitioner's residence to ensure that the petitioner
- 20 (A) safely obtains possession of the petitioner's residence,  
21 vehicle, or personal items; and
- 22 (B) is able to safely remove a vehicle or personal items from  
23 the petitioner's residence;
- 24 (9) award temporary custody of a minor child to the petitioner and may  
25 arrange for visitation with a minor child if the safety of the child and the petitioner can  
26 be protected; if visitation is allowed, the court may order visitation under the  
27 conditions provided in AS 25.20.061;
- 28 (10) give the petitioner possession and use of a vehicle and other  
29 essential personal items, regardless of ownership of the items;
- 30 (11) prohibit the respondent from consuming controlled substances;
- 31 (12) require the respondent to pay support for the petitioner or a minor

1 child in the care of the petitioner if there is an independent legal obligation of the  
2 respondent to support the petitioner or child;

3 (13) require the respondent to reimburse the petitioner or other person  
4 for expenses associated with the domestic violence, including medical expenses,  
5 counseling, shelter, and repair or replacement of damaged property;

6 (14) require the respondent to pay costs and fees incurred by the  
7 petitioner in bringing the action under this chapter;

8 (15) order the respondent, at the respondent's expense, to participate in  
9 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the  
10 standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment  
11 for the abuse of alcohol or controlled substances, or both;

12 (16) order other relief the court determines necessary to protect the  
13 petitioner or any household member.

14 (d) If the court issues a protective order under this section, it shall

15 (1) make reasonable efforts to ensure that the order is understood by  
16 the petitioner and by the respondent, if present; and

17 (2) have the order delivered to the appropriate local law enforcement  
18 agency for expedited service and for entry into the central registry of protective orders  
19 under AS 18.65.540.

20 (e) A court may not deny a petition for a protective order under this section  
21 solely because of a lapse of time between an act of domestic violence and the filing  
22 of the petition.

23 **Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.**

24 (a) A person who is a victim of a crime involving domestic violence may file a  
25 petition under AS 18.66.100(a) and request an ex parte protective order. If the court  
26 finds that the petition establishes probable cause that a crime involving domestic  
27 violence has occurred, it is necessary to protect the petitioner from domestic violence,  
28 and if the petitioner has certified to the court in writing the efforts, if any, that have  
29 been made to provide notice to the respondent, the court shall ex parte and without  
30 notice to the respondent issue a protective order. An ex parte protective order may  
31 grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex

1 parte protective order expires 20 days after it is issued unless dissolved earlier by the  
2 court at the request of either the petitioner or the respondent and after notice and, if  
3 requested, a hearing. If a court issues an ex parte protective order, the court shall have  
4 the order delivered to the appropriate local law enforcement agency for expedited  
5 service and for entry into the central registry of protective orders under AS 18.65.540.

6 (b) A peace officer, on behalf of and with the consent of a victim of a crime  
7 involving domestic violence, may request an emergency protective order from a  
8 judicial officer. The request may be made orally or in writing based upon the sworn  
9 statement of a peace officer, and in person or by telephone. If the court finds probable  
10 cause to believe that the victim is in immediate danger of domestic violence based on  
11 an allegation of the recent commission of a crime involving domestic violence, the  
12 court ex parte shall issue an emergency protective order. In an emergency protective  
13 order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),  
14 (10), (11), and (16). An emergency protective order expires 72 hours after it is issued  
15 unless dissolved earlier by the court at the request of the petitioner.

16 (c) A peace officer who obtains an emergency protective order under (b) of  
17 this section shall

18 (1) place the provisions of an oral order in writing on a form provided  
19 by the court and file the written order with the issuing court by the end of the judicial  
20 day after it was issued;

21 (2) provide a copy of the order to the petitioner;

22 (3) serve a copy of the order on the respondent; and

23 (4) comply with the requirements of AS 18.65.540 for ensuring that the  
24 order is entered into the central registry of protective orders under AS 18.65.540.

25 (d) A court may not deny a petition for an ex parte protective order filed under  
26 (a) of this section solely because of a lapse of time between an act of domestic  
27 violence and the filing of the petition.

28 Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either  
29 the petitioner or the respondent may request modification of a protective order. If a  
30 request is made for modification of

31 (1) an ex parte protective order under AS 18.66.110(a), the court shall

1 schedule a hearing on three days' notice or on shorter notice as the court may  
2 prescribe; the court shall hear and rule on the request in an expeditious manner; or

3 (2) a protective order after notice and hearing under AS 18.66.100(b),  
4 the court shall schedule a hearing within 20 days after the date the request is made,  
5 except that if the court finds that the request is meritless on its face, the court may  
6 deny the request without further hearing.

7 (b) If a request for a modification is made under this section and the  
8 respondent raises an issue not raised by the petitioner, the court may allow the  
9 petitioner additional time to respond.

10 (c) If the court modifies a protective order under this section, it shall issue a  
11 modified order and shall

12 (1) make reasonable efforts to ensure that the order is understood by  
13 the petitioner and by the respondent, if present at the hearing; and

14 (2) have the order delivered to the appropriate local law enforcement  
15 agency for expedited service and for entry into the central registry of protective orders  
16 under AS 18.65.540.

17 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in  
18 a protective order issued under AS 18.66.100 - 18.66.180 is prohibited from  
19 communicating with the petitioner, excluded from the residence of the petitioner, or  
20 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an  
21 invitation by the petitioner to communicate, enter the residence or vehicle, or have  
22 other prohibited contact with the petitioner does not waive or nullify any provision in  
23 a protective order.

24 (b) A court may not grant protective orders against the petitioner and the  
25 respondent in the same action under this chapter.

26 (c) A court may not order parties into mediation or refer them to mediation  
27 for resolution of the issues arising from a petition for a protective order under  
28 AS 18.66.100 - 18.66.180.

29 (d) In addition to other required information contained in a protective order,  
30 the order must include in bold face type the following statements:

31 (1) "Violation of this order may be a misdemeanor, punishable by up

1 to one year of incarceration and up to a \$5,000 fine";

2 (2) "If you are ordered to have no contact with the petitioner or to stay  
3 away from the petitioner's residence, vehicle, or other place designated by the court,  
4 an invitation by the petitioner to have the prohibited contact or to be present at or enter  
5 the residence, vehicle, or other place does not in any way invalidate or nullify the  
6 order."

7 (e) A protective order issued under this chapter is in addition to and not in  
8 place of any other civil or criminal remedy. A petitioner is not barred from seeking  
9 an order under AS 18.66.100 - 18.66.180 because of the existence of another civil  
10 action between the petitioner and respondent.

11 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS  
12 ISSUED IN OTHER STATES. (a) A certified copy of an unexpired protective order  
13 issued in another jurisdiction may be filed with the clerk of court in any judicial  
14 district in this state.

15 (b) A protective order filed in accordance with (a) of this section has the same  
16 effect and must be enforced in the same manner as a protective order issued by a court  
17 of this state.

18 (c) When a protective order is filed with the court under this section, the court  
19 shall have the order delivered to the appropriate local law enforcement agency for  
20 entry into the central registry of protective orders under AS 18.65.540.

21 Sec. 18.66.150. FORMS FOR PETITIONS AND ORDERS; FEES. (a) The  
22 Alaska Court System, after consulting with the Council on Domestic Violence and  
23 Sexual Assault and other interested persons and organizations, shall prepare forms for  
24 petitions, protective orders, and instructions for their use by a person seeking a  
25 protective order under this chapter. The forms must conform to the Alaska Rules of  
26 Civil Procedure, except that information on the forms may be filled in by legible  
27 handwriting.

28 (b) In addition to other information required, a petition for a protective order  
29 must include a statement of pending civil actions or domestic violence criminal actions  
30 involving either the petitioner or the respondent. While a protective order is in effect  
31 or a petition for protective order is pending, both the petitioner and respondent have

1 a continuing duty to inform the court of pending civil actions or domestic violence  
2 criminal actions involving either the petitioner or the respondent.

3 (c) The office of the clerk of each superior and district court shall make  
4 available to the public under AS 18.66.100 - 18.66.180 the forms a person seeking a  
5 protective order under AS 18.66.100 - 18.66.180 may need and instructions for the use  
6 of the forms. The clerk shall provide assistance in completing the forms and filing the  
7 forms.

8 (d) Filing fees may not be charged in any action seeking only the relief  
9 provided in this chapter.

10 Sec. 18.66.160. SERVICE OF PROCESS. (a) Process issued under this  
11 chapter shall be promptly served and executed. If process is to be served upon a  
12 person believed to be present or residing in a municipality, as defined in AS 29.71.800,  
13 or in an unincorporated community, process shall be served by a peace officer of that  
14 municipality or unincorporated community who has jurisdiction within the area of  
15 service. If a peace officer of the municipality or unincorporated community who has  
16 jurisdiction is not available, a superior court, district court, or magistrate may designate  
17 any other peace officer to serve and execute process. A state peace officer shall serve  
18 process in any area that is not within the jurisdiction of a peace officer of a  
19 municipality or unincorporated community. A peace officer shall use every reasonable  
20 means to serve process issued under this chapter.

21 (b) Service of process under (a) of this section does not preclude a petitioner  
22 from using any other available means to serve process issued under this chapter.

23 (c) Fees for service of process may not be charged in a proceeding seeking  
24 only the relief provided in this chapter.

25 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.  
26 When a court issues or accepts for filing a protective order under this chapter, it shall  
27 send a copy of the order to the appropriate local law enforcement agency. Each law  
28 enforcement agency shall establish procedures to inform peace officers of protective  
29 orders. Peace officers shall use every reasonable means to enforce a protective order  
30 issued or filed under this chapter.

31 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for

1 damages against the state, its officers, agents, or employees, or a law enforcement  
2 agency, its officers, agents, or employees for any failure to comply with the provisions  
3 of this chapter.

4 ARTICLE 3. EDUCATION AND PREVENTION.

5 Sec. 18.66.300. STANDARDS AND PROCEDURES FOR HEALTH CARE  
6 IN DOMESTIC VIOLENCE CASES. (a) The Department of Health and Social  
7 Services shall adopt standards and procedures for the delivery of services to victims  
8 of domestic violence by health care facilities and practitioners of the healing arts and  
9 personnel in those facilities. The standards and procedures shall be formulated in  
10 consultation with the Council on Domestic Violence and Sexual Assault, the  
11 Department of Commerce and Economic Development, private agencies that provide  
12 services for victims of domestic violence, and persons with expertise in providing  
13 health care and other services to victims of domestic violence.

14 (b) The Department of Health and Social Services shall make available to  
15 health care facilities and practitioners of the healing arts and personnel in those  
16 facilities a written notice of the rights of victims of domestic violence and the services  
17 available to them. The notice shall be substantially similar to the notice provided in  
18 AS 18.65.520(a).

19 (c) The Department of Health and Social Services may adopt regulations to  
20 implement and interpret this section.

21 Sec. 18.66.310. CONTINUING EDUCATION FOR PUBLIC EMPLOYEES,  
22 COURT SYSTEM EMPLOYEES, AND FOR PROSECUTING AUTHORITIES. (a)  
23 Employers of state or local public employees, including employees of public schools,  
24 shall, in consultation with the Council on Domestic Violence and Sexual Assault,  
25 provide continuing education in domestic violence for the public employees who are  
26 required by law to report abuse or neglect of children under AS 47.17.020.

27 (b) The administrative director of the Alaska Court System shall, in  
28 consultation with the Council on Domestic Violence and Sexual Assault, provide  
29 continuing education in domestic violence for judicial officers and court clerks who  
30 have contact with parties involved in domestic violence.

31 (c) The Department of Law and other prosecuting authorities in the state shall.

1 in consultation with the Council on Domestic Violence and Sexual Assault, provide  
2 continuing education in domestic violence for prosecuting attorneys and other  
3 employees who have contact with persons involved in domestic violence.

4 (d) The continuing education required under (a) - (c) of this section must  
5 include information on the following subjects:

6 (1) the nature, extent, and causes of domestic violence;

7 (2) procedures designed to promote the safety of the victim and other  
8 household members;

9 (3) resources available to victims and perpetrators of domestic violence;

10 and

11 (4) the lethality of domestic violence.

12 ARTICLE 4. GENERAL PROVISIONS.

13 Sec. 18.66.990. DEFINITIONS. In this chapter,

14 (1) "council" means the Council on Domestic Violence and Sexual  
15 Assault;

16 (2) "crisis intervention and prevention program" means a community  
17 program that provides information, education, counseling, and referral services to  
18 individuals experiencing personal crisis related to domestic violence or sexual assault  
19 and to individuals in personal or professional transition, excluding correctional half-  
20 way houses, outpatient mental health programs, and drug or alcohol rehabilitation  
21 programs;

22 (3) "domestic violence" and "crime involving domestic violence" mean  
23 one or more of the following offenses or a law or ordinance of another jurisdiction  
24 having elements similar to these offenses, or an attempt to commit the offense, by a  
25 household member against another household member:

26 (A) a crime against the person under AS 11.41;

27 (B) burglary under AS 11.46.300 - 11.46.310;

28 (C) criminal trespass under AS 11.46.320 - 11.46.330;

29 (D) arson or criminally negligent burning under AS 11.46.400 -  
30 11.46.430;

31 (E) criminal mischief under AS 11.46.480 - 11.46.486;

- 1 (F) terroristic threatening under AS 11.56.310;  
2 (G) violating a domestic violence order under AS 11.56.740; or  
3 (H) harassment under AS 11.61.120(a)(2) - (4);  
4 (4) "domestic violence program" means a program that provides  
5 services to the victims of domestic violence, their families, or perpetrators of domestic  
6 violence;  
7 (5) "household member" includes  
8 (A) adults or minors who are current or former spouses;  
9 (B) adults or minors who live together or who have lived  
10 together;  
11 (C) adults or minors who are dating or who have dated;  
12 (D) adults or minors who are engaged in or who have engaged  
13 in a sexual relationship;  
14 (E) adults or minors who are related to each other up to the  
15 fourth degree of consanguinity, whether of the whole or half blood or by  
16 adoption, computed under the rules of civil law;  
17 (F) adults or minors who are related or formerly related by  
18 marriage;  
19 (G) persons who have a child of the relationship; and  
20 (H) minor children of a person in a relationship that is described  
21 in (A) - (G) of this paragraph;  
22 (6) "local community entity" means a city or borough or other political  
23 subdivision of the state, a nonprofit organization, or a combination of these;  
24 (7) "judicial day" means any Monday through Friday that is not a state  
25 holiday and on which the court clerk's offices are officially opened to receive legal  
26 documents for filing;  
27 (8) "petitioner" includes a person on whose behalf an emergency  
28 protective order has been requested under AS 18.66.110(b);  
29 (9) "sexual assault" means a crime specified in AS 11.41.410 -  
30 11.41.450;  
31 (10) "sexual assault program" means a program that provides services

1 to the victims of sexual assault, their families, or perpetrators of sexual assault.

2 \* Sec. 34. AS 22.10.020(a) is amended to read:

3 (a) The superior court is the trial court of general jurisdiction, with original  
4 jurisdiction in all civil and criminal matters, including probate and guardianship of  
5 minors and incompetents. Except for a petition for a protective order [INJUNCTIVE  
6 RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR 25.35.020], an action that  
7 falls within the concurrent jurisdiction of the superior court and the district court may  
8 not be filed in the superior court, except as provided by rules of the supreme court.

9 \* Sec. 35. AS 22.15.030 is amended to read:

10 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has jurisdiction  
11 of civil cases, including foreign judgments filed under AS 09.30.200 and arbitration  
12 proceedings under AS 09.43.170, as follows:

13 (1) for the recovery of money or damages when the amount claimed  
14 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

15 (2) for the recovery of specific personal property, when the value of  
16 the property claimed and the damages for the detention do not exceed \$50,000;

17 (3) for the recovery of a penalty or forfeiture, whether given by statute  
18 or arising out of contract, not exceeding \$50,000;

19 (4) to give judgment without action upon the confession of the  
20 defendant for any of the cases specified in this section, except for a penalty or  
21 forfeiture imposed by statute;

22 (5) for establishing the fact of death of any person in the manner  
23 prescribed in AS 09.55.020 - 09.55.060;

24 (6) for the recovery of the possession of premises in the manner  
25 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage  
26 to the property does not exceed \$50,000;

27 (7) for the foreclosure of a lien when the amount in controversy does  
28 not exceed \$50,000;

29 (8) for the recovery of money or damages in motor vehicle tort cases  
30 when the amount claimed exclusive of costs, interest, and attorney fees does not  
31 exceed \$50,000;

1 (9) over civil actions for taking utility service and for damages to or  
2 interference with a utility line filed under AS 42.20.030;

3 (10) over cases involving protective orders [INJUNCTIVE RELIEF]  
4 for domestic violence under AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020].

5 (b) Insofar as the civil jurisdiction of the district courts and the superior court  
6 is the same, the jurisdiction is concurrent. Except for a petition for a protective order  
7 [INJUNCTIVE RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR  
8 25.35.020], an action that falls within the concurrent jurisdiction of the superior court  
9 and the district court may not be filed in the superior court, except as provided by  
10 rules of the supreme court.

11 \* Sec. 36. AS 22.15.100 is amended to read:

12 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND  
13 MAGISTRATE. Each district judge and magistrate has the power

14 (1) to issue writs of habeas corpus for the purpose of inquiring into the  
15 cause of restraint of liberty, returnable before a judge of the superior court, and the  
16 same proceedings shall be had on the writ as if it had been granted by the superior  
17 court judge under the laws of the state in such cases;

18 (2) of a notary public;

19 (3) to issue marriage licenses and to solemnize marriages;

20 (4) to issue warrants of arrest, summons, and search warrants according  
21 to manner and procedure prescribed by law and the supreme court;

22 (5) to act as an examining judge or magistrate in preliminary  
23 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the  
24 release of defendants under bail;

25 (6) to act as a referee in matters and actions referred to the judge or  
26 magistrate by the superior court, with all powers conferred upon referees by laws;

27 (7) of the superior court in all respects including but not limited to  
28 contempts, attendance of witnesses, and bench warrants;

29 (8) to order the temporary detention of a minor, or take other action  
30 authorized by law or rules of procedure, in cases arising under AS 47.10, when the  
31 minor is in a condition or surrounding dangerous or injurious to the welfare of the

1 minor or others that requires immediate action; the action may be continued in effect  
2 until reviewed by the superior court in accordance with rules of procedure governing  
3 these cases;

4 (9) to issue a protective order [TEMPORARY ORDER FOR  
5 INJUNCTIVE RELIEF] in cases involving domestic violence as provided in  
6 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020];

7 (10) to review an administrative revocation of a person's driver's  
8 license or nonresident privilege to drive, and an administrative refusal to issue an  
9 original license, when designated as a hearing officer by the commissioner of public  
10 safety and with the consent of the administrative director of the state court system.

11 \* Sec. 37. AS 22.20.110 is amended to read:

12 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF  
13 APPEALS, THE SUPERIOR COURT, AND DISTRICT COURTS. When required  
14 by the supreme court, and except as otherwise provided in AS 18.66.160  
15 [AS 25.35.040], the commissioner shall serve and execute all process issued by the  
16 court of appeals, the superior court, and the district courts; attend to and wait upon  
17 grand and petit juries; maintain order; attend the sessions of the courts; and exercise  
18 the power and perform the duties concerning all matters within the jurisdiction of the  
19 courts as may be assigned. The commissioner is the executive officer of the court of  
20 appeals, the superior court, and district courts.

21 \* Sec. 38. AS 25.20.060 is amended by adding a new subsection to read:

22 (d) If the court finds that a parent or child is a victim of domestic violence,  
23 the court may order that the address and telephone number of the parent or child be  
24 kept confidential in the proceedings.

25 \* Sec. 39. AS 25.20 is amended by adding a new section to read:

26 Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC  
27 VIOLENCE. If visitation is awarded to a parent who has committed a crime involving  
28 domestic violence, against the other parent or a child of the two parents, within the  
29 five years preceding the award of visitation, the court may set conditions for the  
30 visitation, including

31 (1) the transfer of the child for visitation must occur in a protected

1 setting;

2 (2) visitation shall be supervised by another person or agency and under  
3 specified conditions as ordered by the court;

4 (3) the perpetrator shall attend and complete, to the satisfaction of the  
5 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
6 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
7 counseling; the perpetrator shall be required to pay the costs of the program or other  
8 counseling;

9 (4) the perpetrator shall abstain from possession or consumption of  
10 alcohol or controlled substances during the visitation and for 24 hours before visitation;

11 (5) the perpetrator shall pay costs of supervised visitation as set by the  
12 court;

13 (6) the prohibition of overnight visitation;

14 (7) the perpetrator shall post a bond to the court for the return and  
15 safety of the child; and

16 (8) any other condition necessary for the safety of the child, the other  
17 parent, or other household member.

18 \* Sec. 40. AS 25.20.080(a) is amended to read:

19 (a) Except as provided in (f) and (g) of this section, at [AT] any time within  
20 30 days after a petition for child custody is filed under AS 25.20.060 the court may  
21 order the parties to submit to mediation. Each party has [SHALL HAVE] the right to  
22 challenge peremptorily one mediator appointed.

23 \* Sec. 41. AS 25.20.080 is amended by adding new subsections to read:

24 (f) The court may not order or refer parties to mediation in a proceeding  
25 concerning custody or visitation of a child if a protective order issued or filed under  
26 AS 13.66.100 - 18.66.180 is in effect. The court may not order or refer parties to  
27 mediation if a party objects on the grounds that domestic violence has occurred  
28 between the parties unless the court finds that the conditions of (g)(1) - (3) of this  
29 section are met. *my* If the court proposes or suggests mediation under this ~~sub~~ subsection, the  
30 court shall advise the parties that each party has the right to not agree to mediation and  
31 that the decision of each party will not bias other decisions of the court.]

1 (g) A mediator who receives a referral or order from a court to conduct  
2 mediation under (a) of this section shall evaluate whether domestic violence has  
3 occurred between the parties. A mediator may not engage in mediation when either  
4 party has committed a crime involving domestic violence unless

5 (1) mediation is requested by the victim of the alleged domestic  
6 violence, or proposed by the court and agreed to by the victim;

7 (2) mediation is provided by a mediator who is trained in domestic  
8 violence in a manner that protects the safety of the victim and any household member,  
9 taking into account the results of an assessment of the potential danger posed by the  
10 perpetrator and the risk of harm to the victim; and

11 (3) the victim is permitted to have in attendance a person of the  
12 victim's choice, including an attorney.

13 \* Sec. 42. AS 25.20.110 is amended by adding a new subsection to read:

14 (c) In a proceeding involving the modification of an award for custody of a  
15 child or visitation with a child, a finding that a crime involving domestic violence has  
16 occurred since the last custody or visitation determination is a finding of change of  
17 circumstances under (a) of this section.

18 \* Sec. 43. AS 25.24.060(a) is amended to read:

19 (a) Except as provided in (f) and (g) of this section, at [AT] any time within  
20 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the  
21 action may file a motion with the court requesting mediation, for the purpose of  
22 achieving a mutually agreeable settlement in termination of the marriage. When a  
23 party moves for settlement mediation, the other party shall answer the motion on the  
24 record, and the judge may order mediation. When no request for mediation is made,  
25 the court may at any time order the parties to submit to mediation if it determines that  
26 mediation may result in a more satisfactory settlement between the parties.

27 \* Sec. 44. AS 25.24.060 is amended by adding new subsections to read:

28 (f) The court may not order or refer parties to mediation in a divorce  
29 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in  
30 effect. The court may not order or refer parties to mediation if a party objects on the  
31 grounds that domestic violence has occurred between the parties unless the court finds

1 that the conditions of (g)(1) - (3) of this section are met. <sup>(r)</sup> If the court proposes or  
2 suggests mediation under this subsection, the court shall advise the parties that each  
3 party has the right to not agree to mediation and that the decision of each party will  
4 not bias other decisions of the court.

5 (g) A mediator who receives a referral or order from a court to conduct  
6 mediation under (a) of this section shall evaluate whether domestic violence has  
7 occurred between the parties. A mediator may not engage in mediation when either  
8 party has committed a crime involving domestic violence unless

9 (1) mediation is requested by the victim of the alleged domestic  
10 violence, or proposed by the court and agreed to by the victim;

11 (2) mediation is provided by a mediator who is trained in domestic  
12 violence in a manner that protects the safety of the victim and any household member,  
13 taking into account the results of an assessment of the potential danger posed by the  
14 perpetrator and the risk of harm to the victim; and

15 (3) the victim is permitted to have in attendance a person of the  
16 victim's choice, including an attorney.

17 \* Sec. 45. AS 25.24.140(b) is amended to read:

18 (b) During the pendency of the action, upon application, a spouse is entitled  
19 to necessary protective orders, including orders

20 (1) providing for the freedom of each spouse from the control of the  
21 other spouse;

22 (2) for protection under AS 18.66.100 - 18.66.180 [RESTRAINING  
23 EACH SPOUSE FROM SUBJECTING THE OTHER SPOUSE OR ANOTHER  
24 PERSON LIVING IN THE HOUSEHOLD TO DOMESTIC VIOLENCE,  
25 AS DEFINED IN AS 25.35.200];

26 (3) directing one spouse to vacate the marital residence or the home of  
27 the other spouse;

28 (4) restraining a spouse from communicating directly or indirectly with  
29 the other spouse;

30 (5) restraining a spouse from entering a propelled vehicle in the  
31 possession of or occupied by the other spouse; and

1 (6) prohibiting a spouse from disposing of the property of either spouse  
2 or marital property without the permission of the other spouse or a court order.

3 \* Sec. 46. AS 25.24.140(c) is amended to read:

4 (c) Except as provided in (d) and (e) of this section. after [AFTER] a  
5 hearing, if both parties agree, the court may also order that the parties engage in  
6 personal or family counseling or mediation. In the order, the court shall provide for  
7 the payment of the costs of the counseling or mediation.

8 \* Sec. 47. AS 25.24.140 is amended by adding new subsections to read:

9 (d) The court may not order or refer parties to mediation or family counseling  
10 under (c) of this section if a protective order issued or filed under AS 18.66.100 -  
11 18.66.180 is in effect. The court may not order or refer parties to mediation or family  
12 counseling if a party objects on the grounds that domestic violence has occurred  
13 between the parties unless the court finds that the conditions of (e)(1) - (3) of this  
14 section are met. [If the court proposes or suggests mediation under this subsection, the  
15 court shall advise the parties that each party has the right to not agree to mediation and  
16 that the decision of each party will not bias other decisions by the court.]

17 (e) A mediator or family counselor who receives a referral or order from a  
18 court to conduct mediation under (c) of this section shall evaluate whether domestic  
19 violence has occurred between the parties. A mediator or family counselor may not  
20 engage in mediation when either party has committed a crime involving domestic  
21 violence unless

22 (1) mediation or family counseling is requested by the victim of the  
23 alleged domestic violence, or proposed by the court and agreed to by the victim;

24 (2) mediation or family counseling is provided by a mediator or family  
25 counselor who is trained in domestic violence in a manner that protects the safety of  
26 the victim and any household member, taking into account the results of an assessment  
27 of the potential danger posed by the perpetrator and the risk of harm to the victim; and

28 (3) the victim is permitted to have in attendance a person of the  
29 victim's choice, including an attorney.

30 \* Sec. 48. AS 25.24.210(e) is amended to read:

31 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition

1 must state in detail the terms of the agreement between the spouses concerning the  
2 custody of children, child support, visitation, spousal maintenance and tax  
3 consequences, if any, and fair and just division of property, including retirement  
4 benefits. Agreements on spousal maintenance and property division must fairly  
5 allocate the economic effect of dissolution and take into consideration the factors listed  
6 in AS 25.24.160(a)(2) and (4). In addition, the petition must state

7 (1) the respective occupations of the petitioners;

8 (2) the income, assets, and liabilities of the respective petitioners at the  
9 time of filing the petition;

10 (3) the date and place of the marriage;

11 (4) the name, date of birth, and current marital, educational, and  
12 custodial status of each child born of the marriage or adopted by the petitioners who  
13 is under the age of 19;

14 (5) whether the wife is pregnant;

15 (6) whether either petitioner requires medical care or treatment;

16 (7) whether any of the following [A DOMESTIC VIOLENCE  
17 COMPLAINT] has been issued or filed during the marriage by or regarding either  
18 spouse as defendant, participant, or respondent:

19 (A) a criminal charge of a crime involving domestic  
20 violence;

21 (B) a protective order under AS 18.66.100 - 18.66.180;

22 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

23 or

24 (D) a protective order issued in another jurisdiction and  
25 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE  
26 HOUSEHOLD];

27 (8) whether either petitioner has received the advice of legal counsel  
28 regarding a divorce or dissolution;

29 (9) other facts and circumstances that the petitioners believe should be  
30 considered;

31 (10) that the petition constitutes the entire agreement between the

1 petitioners; and

2 (11) any other relief sought by the petitioners.

3 \* Sec. 49. AS 25.24.220(h) is amended to read:

4 (h) In its examination of a petitioner under (d) of this section, the court shall  
5 use a heightened level of scrutiny of agreements if

6 (1) one party is represented by counsel and the other is not;

7 (2) there is evidence that a party committed a crime involving [A]  
8 domestic violence during the marriage or if any of the following [COMPLAINT]  
9 has been issued or filed during the marriage by or regarding either spouse as  
10 defendant, participant, or respondent:

11 (A) a criminal charge of a crime involving domestic  
12 violence;

13 (B) a protective order under AS 18.66.100 - 18.66.180;

14 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

15 or

16 (D) a protective order issued in another jurisdiction and  
17 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE  
18 FAMILY OR THERE IS EVIDENCE OF DOMESTIC VIOLENCE DURING  
19 THE MARRIAGE];

20 (3) there is a minor child of the marriage; or

21 (4) there is a patently inequitable division of the marital estate.

22 \* Sec. 50. AS 25 is amended by adding a new chapter to read:

23 CHAPTER 90. GENERAL PROVISIONS.

24 Sec. 25.90.010. DEFINITIONS. In this title, "domestic violence" and "crime  
25 involving domestic violence" have the meanings given in AS 18.66.990.

26 \* Sec. 51. AS 33.16.120 is amended by adding a new subsection to read:

27 (g) A victim of a crime involving domestic violence shall be informed by the  
28 board at least 30 days in advance of a scheduled hearing to review or consider  
29 discretionary parole for a prisoner. The board shall inform the victim of any decision  
30 to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c).  
31 If the prisoner is to be released, the victim shall be notified of the expected date of the

1 release, the geographic area in which the prisoner will reside, and any other  
2 information concerning conditions of parole that may affect the victim. The victim  
3 shall also be informed of any changes in the conditions of parole that may affect the  
4 victim. The board shall send the notice required to the last known address of the  
5 victim. A person may not bring a civil action for damages for a failure to comply  
6 with the provisions of this subsection.

7 \* **Sec. 52.** AS 33.16.150 is amended by adding a new subsection to read:

8 (f) In addition to other conditions of parole imposed under this section, the  
9 board may impose as a condition of special medical, discretionary, or mandatory parole  
10 for a prisoner serving a term for a crime involving domestic violence (1) any of the  
11 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at  
12 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of  
13 the board, a program for the rehabilitation of perpetrators of domestic violence that  
14 meets the standards set by the department under AS 44.28.020(b); and (3) any other  
15 condition necessary to rehabilitate the prisoner. The board shall establish procedures  
16 for the exchange of information concerning the parolee with the victim and for  
17 responding to reports of nonattendance or noncompliance by the parolee with  
18 conditions imposed under this subsection.

19 \* **Sec. 53.** AS 33.16.220(a) is amended to read:

20 (a) The board may revoke parole if the parolee

21 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or

22 (f); or

23 (2) has violated an order of the court to participate in or comply with  
24 the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

25 \* **Sec. 54.** AS 33.16.220(c) is amended to read:

26 (c) In determining whether a parole violator should be released pending a final  
27 revocation hearing, the board or its designee shall consider

28 (1) the likelihood of the parolee's appearance at a final revocation  
29 hearing;

30 (2) the seriousness of the alleged violation;

31 (3) whether the parolee presents a danger to the community; [AND]

1 (4) whether the parolee is likely to further violate conditions of parole;  
2 and

3 (5) whether the parolee is on parole for a crime involving domestic  
4 violence; if the violation of the condition of parole involved an act of domestic  
5 violence, the parolee may not be released pending the final revocation hearing.

6 \* Sec. 55. AS 33.16.900 is amended by adding a new paragraph to read:

7 (13) "crime involving domestic violence" and "domestic violence" have  
8 the meanings given in AS 18.66.990.

9 \* Sec. 56. AS 33.20.080(b) is amended to read:

10 (b) If requested by the victim of a crime against a person, a crime involving  
11 domestic violence, or arson in the first degree, the board shall send notice of an  
12 application for executive clemency submitted by the state prisoner who was convicted  
13 of that crime. The victim may comment in writing to the board on the application for  
14 executive clemency.

15 \* Sec. 57. AS 33.20.080(d) is amended by adding a new paragraph to read:

16 (3) "crime involving domestic violence" has the meaning given in  
17 AS 18.66.990.

18 \* Sec. 58. AS 33.30.013(b) is amended to read:

19 (b) The commissioner is required to give notice of a change in the status of an  
20 offender under this section only if the victim has requested notice of the change,  
21 except that the commissioner is required to give notice, mailed to the last known  
22 address of the victim, in every case of a crime involving domestic violence.

23 \* Sec. 59. AS 33.30.101 is amended by adding a new subsection to read:

24 (c) The commissioner may release on furlough a prisoner convicted of a crime  
25 involving domestic violence only under conditions that would protect the victim of  
26 domestic violence or other household member.

27 \* Sec. 60. AS 33.30.111(f) is amended to read:

28 (f) Except as provided in (g) of this section, if [IF] the commissioner  
29 considers a prisoner convicted of a crime against a person or arson in the first degree  
30 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the  
31 commissioner shall send notice of intent to consider the prisoner for a prerelease

1 furlough to the victim. The victim may comment in writing on the commissioner's  
2 intent to release the prisoner on a prerelease furlough status. The commissioner shall  
3 consider the victim's comments before making a final decision to release a prisoner  
4 on a prerelease furlough status. The commissioner shall make a reasonable effort to  
5 notify the victim of an intent to release the prisoner on a prerelease furlough. The  
6 notice must contain the expected date of the prisoner's release, the geographic area in  
7 which the prisoner will reside, and other pertinent information concerning the  
8 prisoner's release that may affect the victim.

9 \* **Sec. 61.** AS 33.30.111 is amended by adding a new subsection to read:

10 (g) If the commissioner considers a prisoner convicted of a crime involving  
11 domestic violence for a prerelease furlough, the commissioner shall send notice of  
12 intent to consider the prisoner for prerelease furlough to the last known address of the  
13 victim. The victim may comment in writing on the commissioner's intention to release  
14 the prisoner on a prerelease furlough. The commissioner shall consider the victim's  
15 comments, if any, before making a final decision to release the prisoner on a prerelease  
16 furlough. The commissioner shall make a reasonable effort to notify the victim of any  
17 decision to release the prisoner on the prerelease furlough. The notice must include  
18 the expected date of the furlough and any other information concerning the furlough  
19 that may affect the victim. A person may not bring a civil action for damages for a  
20 failure to comply with the provisions of this subsection.

21 \* **Sec. 62.** AS 33.30.901 is amended by adding a new paragraph to read:

22 (15) "crime involving domestic violence" has the meaning given in  
23 AS 18.66.990.

24 \* **Sec. 63.** AS 43.23.065(b) is amended to read:

25 (b) An exemption is not available under this section for permanent fund  
26 dividends taken to satisfy

27 (1) child support obligations required by court order or decision of the  
28 child support enforcement agency under AS 25.27.140 - 25.27.220;

29 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
30 or AS 47.10.080(b)(4);

31 (3) claims on defaulted scholarship loans under AS 43.23.067;

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(4) court ordered fines;

(5) writs of execution under AS 09.35 of a judgment that is entered

(A) against a minor in a civil action to recover damages;

(B) under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;

(6) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;

**(7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).**

\* Sec. 64. AS 44.21.410(a)(5) is amended to read:

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); **in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor;** and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

\* Sec. 65. AS 44.28.020 is amended by adding a new subsection to read:

(b) The department shall, with the approval of the Council on Domestic Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation programs for perpetrators of domestic violence as defined in AS 18.66.990. For purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall determine whether a program meets the standards.

\* Sec. 66. AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties, have reasonable cause to suspect that a child has suffered harm as a result of child

1 abuse or neglect shall immediately report the harm to the nearest office of the  
2 department:

- 3 (1) practitioners of the healing arts;
- 4 (2) school teachers and school administrative staff members of public  
5 and private schools;
- 6 (3) social workers;
- 7 (4) peace officers, and officers of the Department of Corrections;
- 8 (5) administrative officers of institutions;
- 9 (6) child care providers;
- 10 (7) paid employees of domestic violence and sexual assault programs,  
11 and crisis intervention and prevention programs as defined in AS 18.66.990  
12 [AS 18.66.900];
- 13 (8) paid employees of an organization that provides counseling or  
14 treatment to individuals seeking to control their use of drugs or alcohol.

15 \* Sec. 67. AS 47.17 is amended by adding a new section to read:

16 Sec. 47.17.035. DUTIES OF DEPARTMENT IN DOMESTIC VIOLENCE  
17 CASES. (a) In consultation with the Council on Domestic Violence and Sexual  
18 Assault, the department shall develop written procedures for screening reports of harm  
19 for abuse and neglect of a child to assess whether there is domestic violence occurring  
20 within the family. The procedures must include the following factors:

21 (1) inquiry concerning the criminal records of the parents or of the  
22 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the  
23 child; and

24 (2) inquiry concerning the existence of protective orders issued or filed  
25 under AS 18.66.100 - 18.66.180 involving either parent as a petitioner or respondent.

26 (b) If the department determines in an investigation of abuse or neglect of a  
27 child that

28 (1) the child is in danger because of domestic violence or that the child  
29 needs protection as a result of the presence of domestic violence in the family, the  
30 department shall take appropriate steps for the protection of the child;

31 (2) a person is the victim of domestic violence, the department shall

1 provide the victim with a written notice of the rights of and services available to  
2 victims of domestic violence that is substantially similar to the notice provided to  
3 victims of domestic violence under AS 18.65.520.

4 (c) For purposes of obtaining access to information needed to conduct the  
5 inquiries required by (a)(1) and (2) of this section, the department is a criminal justice  
6 agency conducting a criminal justice activity.

7 (d) A person may not bring a civil action for damages for a failure to comply  
8 with the provisions of this section.

9 (e) In this section,

10 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

11 (2) "criminal justice agency" has the meaning given in AS 12.62.900;

12 (3) "domestic violence" has the meaning given in AS 18.66.990.

13 \* Sec. 68. Rule 3, Alaska Rules of Civil Procedure, is amended by adding a new  
14 subsection to read:

15 (h) A petition or request for a protective order on domestic violence under  
16 AS 18.66 may be filed in the judicial district

17 (1) where the petitioner currently or temporarily resides;

18 (2) where the respondent resides; or

19 (3) where the domestic violence occurred.

20 \* Sec. 69. Rule 100(a), Alaska Rules of Civil Procedure, is amended to read:

21 (a) Application. At any time after a complaint is filed, a party may file a  
22 motion with the court requesting mediation for the purpose of achieving a mutually  
23 agreeable settlement. The motion must address how the mediation should be  
24 conducted as specified in paragraph (b), including the names of any acceptable  
25 mediators. **If domestic violence has occurred between the parties and mediation**  
26 **is requested in a matter covered by AS 25, mediation may only be ordered when**  
27 **permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered**  
28 **by AS 25, the** [THE] court may order mediation in response to such a motion, or on  
29 its own motion, whenever it determines that mediation may result in an equitable  
30 settlement. In making this determination, the court **shall** [MAY] consider whether  
31 there is a history of domestic violence between the parties which could be expected

1 to affect the fairness of the mediation process or the physical safety of the domestic  
2 violence victim. Mediation may not be ordered between the parties to, or in, a case  
3 filed under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR .020 AND CONDUCT  
4 WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES  
5 MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].

6 \* Sec. 70. Rule 505(a)(2), Alaska Rules of Evidence, is amended to read:

7 (2) Exceptions. There is no privilege under this subdivision:

8 (A) In a civil proceeding brought by or on behalf of one spouse  
9 against the other spouse; or

10 (B) In a proceeding to commit or otherwise place his spouse,  
11 the property of his spouse, or both the spouse and the property of the spouse  
12 under the control of another because of the alleged mental or physical condition  
13 of the spouse; or

14 (C) In a proceeding brought by or on behalf of a spouse to  
15 establish his competence; or

16 (D) In a proceeding in which one spouse is charged with:

17 (i) A crime against the person or the property of the  
18 other spouse or of a child of either, whether such crime was committed  
19 before or during marriage.

20 (ii) Bigamy, incest, adultery, pimping, or prostitution.

21 (iii) A crime related to abandonment of a child or  
22 nonsupport of a spouse or child.

23 (iv) A crime prior to the marriage.

24 (v) A crime involving domestic violence as defined in

25 AS 18.66.990.

26 (E) In a proceeding involving custody of a child.

27 (F) Evidence derived from or related to a business relationship  
28 involving the spouses.

29 \* Sec. 71. AS 11.56.740(a)(2) is repealed.

30 \* Sec. 72. AS 12.25.030(d); AS 12.61.900(1); AS 18.65.520(c); AS 18.66.900;  
31 AS 25.35.010, 25.35.020, 25.35.030, 25.35.040, 25.35.050, and 25.35.200 are repealed.

1 \* **Sec. 73. REVISOR'S CHANGES.** The revisor of statutes is requested to remove  
2 AS 25.35.100 - 25.35.150 from AS 25 and place these provisions in AS 18, renumbered as  
3 AS 18.66.200 - 18.66.250, and as a whole described as "Article 3. Confidential  
4 Communications." The revisor is also requested to revise all statutory cross-references to  
5 these statutes.

6 \* **Sec. 74. TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.**  
7 A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on  
8 the effective date of sec. 72 of this Act remains in effect until it expires under the terms of  
9 the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs  
10 earlier.

11 \* **Sec. 75. TRANSITION: REGULATIONS.** Notwithstanding secs. 81, 83, and 84 of this  
12 Act, the state agencies affected by this Act may proceed to adopt regulations necessary to  
13 implement changes affecting the state agency that are enacted by this Act. The regulations  
14 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date  
15 of the changes in law in this Act.

16 \* **Sec. 76.** AS 18.66.150(d) and 18.66.160(c), added by sec. 33 of this Act, have the effect  
17 of amending Rules 9(b)(11), 9(c)(3), and 9(e)(6), Alaska Rules of Administration, by  
18 eliminating filing fees and service of process fees in domestic violence actions for protective  
19 orders.

20 \* **Sec. 77.** AS 18.66.160, added by sec. 33 of this Act, has the effect of amending Rule 4,  
21 Alaska Rules of Civil Procedure, relating to service of process in domestic violence actions  
22 for protective orders.

23 \* **Sec. 78.** AS 18.66.110 - 18.66.130, added by sec. 33 of this Act, have the effect of  
24 amending Rule 65(b) - (d), Alaska Rules of Civil Procedure, relating to temporary restraining  
25 orders, the method of obtaining those orders, and the timing of those orders.

26 \* **Sec. 79.** AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule  
27 613, Alaska Rules of Evidence, relating to impeachment of witnesses.

28 \* **Sec. 80.** Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76  
29 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,  
30 Constitution of the State of Alaska.

31 \* **Sec. 81.** If secs. 68 - 70 and 76 - 79 of this Act take effect under sec. 80 of this Act,

1 they take effect July 1, 1996.

2 \* Sec. 82. Section 75 of this Act takes effect immediately under AS 01.10.070(c).

3 \* Sec. 83. Except as provided in secs. 81, 82, and 84 of this Act, this Act takes effect  
4 July 1, 1996.

5 \* Sec. 84. Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of  
6 this Act.

**DOMESTIC VIOLENCE PREVENTION AND  
VICTIM PROTECTION ACT OF 1996**

Proposed SCS HB 314 (Jud) -- 4/13/96 draft

**SECTIONAL ANALYSIS**

**Section 1** names the Act.

**Section 2** adds crime involving domestic violence to the definition of serious criminal offense in AS 09.60.070(c). This allows a person to recover full attorney fees in a cause of action arising from the commission of a crime involving domestic violence.

**Section 3** is a conforming amendment. It amends stalking in the first degree so that it refers to protective orders issued under AS 18.66 and former AS 25.35.

**Section 4** is a conforming amendment. It changes the definition of "enter or remain unlawfully" in the burglary and criminal trespass statutes to refer to protective orders under AS 18.66 and former AS 25.35.

**Section 5** rewrites the crime of violating a domestic violence protective order. It is an A misdemeanor to knowingly violate a condition of a protective order which

- 1) prohibits the respondent from committing further domestic violence;
- 2) prohibits the respondent from communicating with the victim;
- 3) removes the respondent from the home of the victim;
- 4) orders the respondent to stay away from the home, school, job, or other place where the victim may be found;
- 5) prohibits the respondent from entering a vehicle with the victim;
- 6) prohibits the respondent from possessing a deadly weapon; or
- 7) requires the respondent to surrender a firearm.

In current law a person commits the crime of violating a domestic violence restraining order only if the person communicates with another after being ordered not to, after a court has made a factual finding that the person had committed domestic violence.

**Section 6** clarifies that it is not a defense that a respondent, if ordered not to communicate with the victim or be present at the residence or other place, did so at the invitation of the victim.

**Section 7** is a conforming amendment. It amends third degree misconduct involving weapons to include criminal trespass by violating a protective order under AS 18.66 and former AS 25.35.

**Section 8** amends AS 12.25.030, grounds for arrest without a warrant, to include the mandatory arrest with probable cause requirement in domestic violence cases (within 12 hours of offense) in the Act, and discretionary arrest without a warrant in other domestic violence situations. A more complete explanation of the arrest authority is found in section 29.

**Section 9** adds crimes involving domestic violence to the exceptions to the general rule that a peace officer may issue a citation for a misdemeanor or violation rather than arrest the offender. The Act requires a law enforcement officer to arrest a person when there is probable cause to believe the person has committed domestic violence within the previous 12 hours, with certain exceptions. This is explained more fully in section 29.

**Section 10** is a conforming, technical amendment to the existing statute setting conditions of release before trial in cases involving stalking that is necessitated by the amendment contained in section 11.

**Section 11** addresses release before trial, pending sentencing, and pending appeal of a person charged or convicted of a domestic violence offense. It requires the court to consider the safety of the victim and the victim's family in addition to the safety of the public before releasing the defendant. It provides additional conditions of release that may be imposed on a defendant in a domestic violence case; for example, no contact with the victim. It requires the prosecuting or arresting authority to make reasonable efforts to notify the victim when a domestic violence defendant is released from custody. Section 11 also requires a person who is arrested for domestic violence to appear personally or telephonically before a judicial officer before being released.

**Section 12** requires, as part of a sentence following a conviction for a crime involving domestic violence, that deadly weapons used or possessed by a defendant during the commission of a crime involving domestic violence be forfeited.

**Section 13** adds a new section to AS 12.55 (sentencing) to require the court to consider the safety of the victim before ordering probation for a domestic violence offender. It also provides additional conditions of probation in domestic violence cases, including the condition of a rehabilitation program for the offender if one is available where

the offender resides. Treatment must be paid for by the defendant if the defendant is not in custody.

**Section 14** is a conforming amendment. The mandatory 20 day term of imprisonment for conviction of assault in the fourth degree in violation of a protective order is applied to orders under AS 18.66 as well as former AS 25.35.

**Section 15** is a conforming, definitional amendment.

**Section 16** makes a conforming amendment to AS 12.61 (Victims' Rights), and adds the requirement that prosecutors make a reasonable effort to confer with all victims of domestic violence before entering into a plea agreement in a case.

**Section 17** adds domestic violence to the offenses (others are crimes against the person, burglary and criminal trespass, terroristic threatening, misconduct involving weapons in 1st through 4th degrees) where the court may decide that the threat to the victim prohibits the defendant, when representing him or herself, from obtaining the address and telephone number of the victim.

**Section 18** clarifies that the duty of defendants and their representatives to clearly identify themselves to victims extends to victims of offense with which the defendant is not yet, but could be, charged.

**Section 19** provides that defendants and their representatives who want to tape record statements of victims and witnesses, must obtain the consent of the victim or witness before recording the statement. It also allows victims and witnesses to obtain a copy of the statement that was taken.

**Section 20** provides that defendants charged with sex crimes, and their representatives, may not contact a victim or witness if the victim or witness informs the defendant in writing that the victim or witness does not wish to be contacted by the defense. If a victim or witness of a sex crime does consent to contact, written or tape recorded authorization for taking a statement must be obtained from the victim or witness. The section also provides that statements taken from a victim or witness in violation of the statute are presumed to be inadmissible, and provides a method for the defendant to overcome the presumption of inadmissibility.

**Section 21** sets out definitions that apply to sections 18-20.

**Section 22** amends the definition of serious offense in the Criminal Justice Information Systems Security and Privacy Act by adding crimes involving domestic violence. This has the effect of allowing information about past convictions of domestic violence to be released under AS 12.62.160(b)(11) to an interested person, if the

information is requested to help decide if a person should be given supervisory or disciplinary power over a child or dependent adult.

**Section 23** is a conforming, definitional amendment.

**Section 24** amends the Alaska Police Standards Council statute on minimum standards for permanent appointment as a police officer to include at least 12 hours instruction in domestic violence.

**Section 25** requires correctional, probation, and parole officers to be trained in domestic violence in order to be certified.

**Section 26** amends the requirements for domestic violence education in police training programs by adding training in investigating and report writing in domestic violence cases, the laws relating to domestic violence protective orders, and general information about the effects of domestic violence. The section also requires police training programs to consult with the Council on Domestic Violence and Sexual Assault in preparing domestic violence training programs.

**Section 27** adds to the duties of peace officers in domestic violence cases by requiring the officer to transport the victim and the victim's family to a shelter or safe home, assist in removing belongings from a residence, help the victim obtain medical care, and give notice of the victim's rights. It also allows a peace officer to seize a deadly weapon for protective purposes, and requires the weapon to be returned to the owner if it is not needed for evidence.

**Section 28** revises the notice required to be given by a peace officer to a domestic violence victim by expanding the information which must be provided. In addition to the information required in current law, a victim must be advised that the officer will assist in retrieving belongings from a residence, obtaining medical care, and obtaining an emergency protective order. The victim must also be advised concerning domestic violence protective orders and the protections which are available in an order.

**Section 29** requires a peace officer to arrest a person who the officer has probable cause to believe has committed domestic violence, violated a domestic violence protective order, or violated a condition of release in connection with a domestic violence charge within the last 12 hours. There are three exceptions to this mandate: first, if there is more than one domestic violence complaint arising from the same incident, the officer must evaluate which party is the principal aggressor and arrest that person. Second, arrest is not mandated in homicides. Homicide investigations require painstaking investigation; a hasty arrest would likely result in a weaker case. Further, since the victim is deceased the urgency to arrest the perpetrator to protect the victim is no longer present.

Third, a peace officer may request authorization from the prosecuting authority not to arrest.

This section also prohibits a peace officer from threatening to arrest all the persons present in an incident of domestic violence. The purpose is to encourage victims to report domestic violence rather than to discourage reporting because of fear of arrest.

A peace officer who does not make an arrest after a domestic violence incident, or who arrests more than one person from a single incident, must put in writing the reasons for the action.

Section 29 also establishes a central registry of domestic violence protective orders in the Department of Public Safety. It contains all protective orders issued in this state and those issued in other states and filed under AS 18.66.140. A petitioner or respondent under a protective order may challenge the accuracy of information in the registry by procedures provided. Protective orders should be entered in the registry within 24 hours of being issued or registered.

**Section 30** adds crimes involving domestic violence to those misdemeanor convictions which would disqualify a person from obtaining a permit to carry a concealed weapon. The section also adds a conforming amendment, which adds the issuance of a protective order under AS 18.66 to those issued under former AS 25.35 as a basis for denial of a permit to carry a concealed weapon.

**Section 31** is a conforming amendment, adding orders issued under AS 18.66 to those under former AS 25.35 as a basis for immediate suspension of a permit to carry a concealed weapon.

**Section 32** adds new responsibilities to the Council on Domestic Violence and Sexual Assault. The council must consult with specific public entities throughout the state to provide expertise in training people who come in contact with victims of domestic violence and their families.

**Section 33** adopts provisions for obtaining protective orders in domestic violence cases. A victim of domestic violence or the parent or guardian of a victim may apply to the courts for a domestic violence protective order. There are three types of protective orders that may be issued:

- 1) a protective order issued after notice to the respondent and a hearing;
- 2) an *ex parte* protective order; and

3) an emergency protective order.

The extent of protection available in the order depends on the type of protective order.

A court may grant a protective order after notice and hearing if it finds by a preponderance of evidence that the respondent committed a crime involving domestic violence. The protection available in such an order includes, for example, ordering the respondent to stay away from the petitioner, the petitioner's residence, place of employment or other place, removing the respondent from the residence of the petitioner, and other relief the court determines necessary to protect the victim. A protective order issued after notice and hearing is effective for a year or, if the condition is to stay away from the victim until further order of the court. The authorized protections are more extensive and the effective period is longer than current law. Under present law a domestic violence injunction is effective for 90 days, with the possibility of one 45 day extension.

A victim of domestic violence may request a protective order and ask for *ex parte* relief. If the petition establishes probable cause that a crime involving domestic violence has occurred, and the court finds it necessary to protect the petitioner it shall, without notice or hearing, issue the order *ex parte*. An *ex parte* order may not order all protections available in a protective order after notice and hearing; rather, the protections available focus on the immediate safety of the victim. For example, an *ex parte* protective order may not order the respondent to participate in a program of rehabilitation for batterers. An *ex parte* order expires 20 days after it is issued unless extended or dissolved by the court.

An emergency protective order may be obtained by a peace officer on behalf of a victim of a crime involving domestic violence. It may be obtained by a telephone call to a judicial officer, if there is probable cause to believe that a person is in imminent danger of domestic violence, based on the allegation of the recent commission of domestic violence directed toward the petitioner. The protections available in the order concern the immediate safety of the victim. It expires 72 hours after issuance. There is no similar provision in existing law.

As with current law, either the petitioner or the respondent may request modification of a protective order. For an *ex parte* order, the court must schedule a hearing on 3 days notice, unless the court prescribes a shorter notice period. A hearing on a request to modify a protective order issued after notice and hearing must be scheduled within 20 days of the request, unless the court determines that the request to modify is meritless on its face.

If a protective order prohibits contact by the respondent with the petitioner, the initiation of contact by the petitioner does not excuse the contact, and does not

invalidate the order. Mutual protective orders are prohibited, and mediation may not be ordered for issues arising from the petition. As in present law, a protective order is in addition to any other civil or criminal remedy.

A protective order issued by another state may be filed with the courts of this state, and must be enforced as if they were issued by a court in this state.

The court system must prepare forms and instructions for applying for protective orders after consulting with the Council on Domestic Violence and Sexual Assault. Petitions must include a statement of pending litigation between the petitioner and the respondent. Procedures for service of process are the same as in current law, except that fees for service of process may not be charged in a case seeking only domestic violence protective relief.

When a court issues a protective order, it must send the order to the appropriate law enforcement agency. Law enforcement agencies must establish procedures to inform their officers, and peace officers must use every reasonable means to enforce the order.

The section also addresses health treatment for victims, education about domestic violence, and prevention. It requires the Department of Health and Social Services to adopt standards and procedures for health care to victims. It requires public employers of people who work with children and families to provide continuing education to their employees who are required by law to report abuse or neglect of children. It requires the court system and the Department of Law to provide continuing education to their employees who come into contact with domestic violence victims and perpetrators.

These agencies must consult with the Council on Domestic Violence and Sexual Assault in formulating continuing education programs. General standards for the subject matter to be included in the training are provided. Decisions regarding other particulars of the continuing education including length and form of training (whether oral or written) are left to the individual agency.

"Domestic violence" for purposes of the Act is defined as one of the following offenses, or a similar municipal ordinance violation, that is directed to a household member:

- crimes against a person under AS 11.41;
- burglary under AS 11.46.300 - 11.46.310;
- criminal trespass under AS 11.46.320 - 11.46.330;
- arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
- criminal mischief under AS 11.46.480 - 11.46.486;
- terroristic threatening under AS 11.56.810;

violating a protective order under AS 11.56.740; and harassment under AS 11.61.120(a)(2) - (4).

In present law domestic violence includes only crimes against the person under AS 11.41.

"Household member" is defined as including adults or minors who currently or formerly were married, lived together, dated, or have engaged in a sexual relationship; adults or minors related by blood or adoption, current or former marriage, who have a child in common, and minor children of persons described above.

**Section 34** is a conforming amendment which provides that a petition for a protective order under AS 18.66 may be filed in either the superior or district court. This is the same as present law.

**Section 35** is a conforming amendment adding protective orders under AS 18.66 to those issued under former AS 25.35 to the jurisdiction of the district court and providing that petitions for protective order under AS 18.66 may be filed in either superior or district court.

**Section 36** is a conforming amendment providing that magistrates and district court judges may issue protective orders under AS 18.66.

**Section 37** is a conforming amendment which substitutes AS 18.66.160 for AS 25.35.040 in regard to service of process for domestic violence protective orders.

**Section 38** adds a provision to the child custody statute to allow the address and telephone number of the victim of domestic violence to be kept confidential.

**Section 39** also addresses child visitation in cases where domestic violence has occurred. Conditions which may be imposed on visitation where domestic violence occurred are provided, including supervised visitation.

**Sections 40 and 41** amend the statute allowing mediation in child custody cases whenever a party petitions for mediation. The Act prohibits mediation in cases where a domestic violence protective order is in effect. If there is no order in effect but the court finds that domestic violence has occurred, mediation is allowed only when certain safeguards are met -- the victim requests mediation, the mediator is trained in domestic violence cases, and the victim is allowed a supporting person to attend. A mediator assigned to a child custody case is required to screen for domestic violence, and may not mediate where either party has committed a crime involving domestic violence unless the safeguards are met.

**Section 42** amends the provision concerning modification of a child custody or visitation award. Modification is allowed if the court determines there has been a change in circumstances. The Act provides that a finding that domestic violence has occurred since the last decision constitutes a change in circumstances.

**Sections 43 and 44** addresses mediation in divorce actions. It qualifies the provision that mediation may be ordered whenever a request for mediation is filed within a certain time limit. Mediation may not be ordered if a protective order under AS 18.66 is in effect. Mediation may not be ordered if a party objects based on domestic violence unless certain safeguards are present. These safeguards include the victim requesting mediation, the mediator being trained in domestic violence, and allowing a support person to attend with the victim. Additionally, when a mediator is appointed without an objection based on domestic violence, the mediator must screen for domestic violence, and may not continue mediation if either party has committed a crime involving domestic violence unless safeguards are present.

**Section 45** is a conforming amendment providing that protective orders under AS 18.66 may be ordered while a divorce case is pending.

**Sections 46 and 47** amend the statute allowing mediation or family counseling during the pendency of a divorce action by providing that mediation and family counseling may not be ordered if a protective order under AS 18.66 is in effect. Mediation or family counseling may not be ordered if a party objects based on domestic violence, unless the safeguards discussed in section 41 are provided.

**Sections 48 and 49** address the court's responsibilities in regard to a petition for dissolution of the marriage filed by both parties to a marriage. The petition must state whether a criminal charge of domestic violence has been filed or whether a petition for a domestic violence protective order has been filed by a member of the household during the marriage. In such cases, the court must give heightened scrutiny to the dissolution agreement to ensure it is fair to both parties. The court must also give heightened scrutiny to a dissolution agreement if there is any evidence of domestic violence during the marriage.

**Section 50** is a conforming, definitional amendment.

**Section 51** amends AS 33.16.120, which establishes victims' rights in connection to parole, by adding a requirement that the Parole Board inform a victim of domestic violence 30 days in advance of a hearing to consider discretionary parole for the prisoner. It also requires the board to inform the victim of its decision to grant or deny discretionary parole and to release the prisoner on mandatory parole. The victim must be informed of the area a parolee will reside and conditions on the parole of a prisoner, and of any changes in these conditions.

**Section 52** amends AS 33.16.150 to provide for conditions of parole in domestic violence cases, in addition to those conditions which may be imposed in other cases. These conditions parallel the conditions which may be imposed as bail or probation considerations for domestic violence offenders. It also requires the Parole Board to establish procedures for informing the victim of relevant information concerning the parolee and for responding to reports of noncompliance with release conditions by the parolee.

**Section 53** adds violation of the new conditions of release as a basis for revocation of parole.

**Section 54** addresses the factors which the Parole Board must consider in releasing the parolee from custody pending a decision on whether to revoke parole. It provides that if the person is on parole for a domestic violence crime, and the alleged violation is based on an act of domestic violence, the parolee may not be released pending the final revocation hearing.

**Section 55** is a conforming, definitional amendment.

**Section 56** allows a victim of domestic violence to request to be notified by the Parole Board of an application for executive clemency by the parolee, and allows the victim to comment in writing on the application to the board.

**Section 57** is a conforming, definitional amendment.

**Section 58** requires the Commissioner of Corrections to give notice of a status change of an offender to the victim of domestic violence.

**Section 59** allows the Commissioner of Corrections to release a domestic violence offender on prerelease and short-duration furloughs only under conditions which protect the victim and the victim's family.

**Section 60 and 61** require the Commissioner of Corrections to notify the victim and to accept and consider comments by a victim of domestic violence before deciding to release the prisoner on prerelease furlough. The victim must be notified of the decision to release the prisoner.

**Section 62** is a conforming, definitional amendment.

**Section 63** adds payment for court ordered rehabilitation programs under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), AS 33.16.150(c)(2) to those obligations where an exemption from levy on permanent fund dividends is not available.

**Section 64** amends the Office of Public Advocacy statute to allow appointment of a guardian ad litem for a minor under section 33.

**Section 65** requires the Department of Corrections to adopt standards for rehabilitation programs for perpetrators of domestic violence. The department must determine if a program meets the standards before a court may order a person to participate in the program.

**Section 66** is a conforming amendment correcting the statutory citation of definitions for domestic violence programs.

**Section 67** requires the Department of Health and Social Services to develop procedures for screening reports of child abuse and neglect for the presence of domestic violence. The procedures must include criminal record checks of the alleged abusive or neglectful person and inquiry into whether a domestic violence protective order has been issued to either parent. The department must take action to protect the child if it determines that the domestic violence is endangering the child either directly or by exposure to domestic violence of another family member, and must provide victims with a notice setting out their rights and services available to victims.

**Section 68** amends Rule 3, Alaska Rules of Civil Procedure, by setting the venue for petitions for domestic violence protective orders.

**Section 69** amends Rule 100(a), Alaska Rules of Civil Procedure, regarding mediation in cases where domestic violence has occurred.

**Section 70** amends Rule 505(a)(2), Alaska Rules of Evidence, to add an exception to spousal privilege in a case of a crime involving domestic violence.

**Section 71 and 72** describe the statutes repealed as a result of adopting the Act.

**Section 73** requests the Revisor of Statutes to move domestic violence related statutes from Title 25 to Title 18 so that domestic violence statutes are in the same Title, and requests the revisor to change statutory cross-references to these statutes.

**Section 74** provides that domestic violence injunctions in force on the effective date of the Act remain effective until they expire by their own terms or are dissolved by the court.

**Section 75** allows agencies with a duty to adopt regulations under the Act to begin formalizing regulations before the Act is effective.

**Sections 76 -- 79** describes changes in court rules that do not require a super majority vote.

**Section 80** describes changes in the bill which affect court rules and which require a 2/3 majority vote.

**Sections 81 -- 84** contain the effective dates.

1 setting;

2 (2) visitation shall be supervised by another person or agency and under  
3 specified conditions as ordered by the court;

4 (3) the perpetrator shall attend and complete, to the satisfaction of the  
5 court, a program for the rehabilitation of perpetrators of domestic violence that meets  
6 the standards set by the Department of Corrections under AS 44.28.020(b), or other  
7 counseling; the perpetrator shall be required to pay the costs of the program or other  
8 counseling;

9 (4) the perpetrator shall abstain from possession or consumption of  
10 alcohol or controlled substances during the visitation and for 24 hours before visitation;

11 (5) the perpetrator shall pay costs of supervised visitation as set by the  
12 court;

13 (6) the prohibition of overnight visitation;

14 (7) the perpetrator shall post a bond to the court for the return and  
15 safety of the child; and

16 (8) any other condition necessary for the safety of the child, the other  
17 parent, or other household member.

18 \* Sec. 40. AS 25.20.080(a) is amended to read:

19 (a) Except as provided in (f) and (g) of this section, at [AT] any time within  
20 30 days after a petition for child custody is filed under AS 25.20.060 the court may  
21 order the parties to submit to mediation. Each party has [SHALL HAVE] the right to  
22 challenge peremptorily one mediator appointed.

23 \* Sec. 41. AS 25.20.080 is amended by adding new subsections to read:

24 (f) The court may not order or refer parties to mediation in a proceeding  
25 concerning custody or visitation of a child if a protective order issued or filed under  
26 AS 18.66.100 - 18.66.180 is in effect. The court may not order or refer parties to  
27 mediation if a party objects on the grounds that domestic violence has occurred  
28 between the parties unless the court finds that the conditions of (g)(1) - (3) of this  
29 section are met. If the court proposes or suggests mediation under this subsection,

30 (1) <sup>the mediator or mediator can only occur if</sup> the victim of the alleged domestic violence ~~must~~ agree to the  
31 mediation; <sup>and</sup> ~~and~~ <sup>as the order of 9/15/11 - 6/1/11 was met</sup>

per  
Laurie Otto

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB314(JUD)

Revision Date: 5/6/96 Dept. Affected: Corrections  
 Title: An Act relating to domestic violence..... BRU: All  
 Component: \_\_\_\_\_  
 Sponsor: Rep. Parnell  
 Requester: S. Rules COMPONENT SERIAL NO. #0694

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>55.0</b>	<b>65.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	55.0	65.0	35.0	35.0	35.0	35.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>55.0</b>	<b>65.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>	<b>35.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	1	1				
PART-TIME			1	1	1	1
TEMPORARY						

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

The primary effect of this bill on the DOC will be to allow the department to clearly delineate domestic violence cases from assault related cases. It will allow the department to improve responsiveness for victim services and security as well as to offender treatment and rehabilitation.

This bill gives the Council On Domestic Violence And Sexual Assault the responsibility to establish standards for training and treatment programs. To accomplish these requirements, CDVSA will require the services of a project coordinator for 10 months beginning 9/96 and for all of FY 98. Once fully implemented, maintenance level oversight will require only a half time position. \$5.0 in travel funds is required for on site compliance evaluation.

DOC will transfer by RSA the full amount allocated for these services to the Department of Public Safety/Council On Domestic Violence and Sexual Assault.

Prepared by: \_\_\_\_\_  
 Division: Office of the Commissioner  
 Approved by Commissioner: Margaret Pugh Margaret Pugh  
 Agency: Department of Corrections

Phone: 465-4652  
 Date: 5/6/96  
 Date: 5/6/96

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Amendment #1  
SEN FIN COMM

TO: SCS CSHB 314 (JUD)  
9-LS1091Z

- Sec 41 Page ~~38~~<sup>35</sup>, line ~~7~~<sup>3</sup>: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]
- Sec 44 Page 36, line ~~8~~<sup>4</sup>: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]
- Sec 47 Page 37, line ~~14~~<sup>15</sup>: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]

This amendment returns the sections of the bill regarding mediation back to their initial form. The original language is that proposed by the model code for states which allow domestic violence cases to be mediated in certain circumstances.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 314(FIN)

- 1 Page 21, line 20, following "the minor.":
- 2       Insert "Notwithstanding AS 25.24.310 or this section, the office of public advocacy
- 3 may not be appointed as a guardian ad litem or attorney for a minor in a petition filed under
- 4 this section unless the petition has been filed on behalf of the minor."

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 314(JUD)

- 1 Page 15, line 23:  
2 Delete "your abuser used, possessed, or threatened to use"  
3 Insert "the court finds your abuser used or threatened to use,"
- 4 Page 15, line 24:  
5 Delete "deadly weapon during the commission of your abuse"  
6 Insert "weapon in your abuse or in future abuse"
- 7 Page 15, line 26:  
8 Following "if":  
9 Insert "the court finds that"  
10 Following "used,":  
11 Delete "possessed,"
- 12 Page 15, line 27:  
13 Delete "during the commission of your abuse"  
14 Insert "in your abuse or in future abuse"



# Alaska Fire Chief's Association

2358 Broadway Road • North Pole, Alaska 99705 • (907) 488-3400 • Fax: (907) 488-6118

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BILLY HARRIS  
*Past President*  
(907) 283-4388  
Nikiski

## Resolution 96-06

**A RESOLUTION OF THE ALASKA FIRE CHIEF'S ASSOCIATION SUPPORTING HB314 WHICH IS AN ACT RELATING TO DOMESTIC VIOLENCE AND TO CRIME VICTIMS AND WITNESSES; AND AMENDING RULE 613, ALASKA RULES OF EVIDENCE.**

**WHEREAS,**

the Alaska Fire Chief's Association is dedicated to reducing pain, suffering, and loss of life for all Alaskans,

**AND WHEREAS,**

domestic violence has the potential of affecting anyone of us at anytime,

**AND WHEREAS,**

domestic violence incidents are extremely hazardous to emergency medical responders,

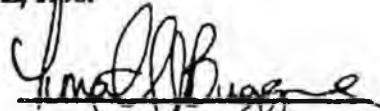
**AND WHEREAS,**


emergency medical responders are not trained or equipped to control violent persons.

**NOW THEREFORE BE IT RESOLVED THAT,**

**THE ALASKA FIRE CHIEF'S ASSOCIATION STRONGLY SUPPORTS THE SIGNING OF HB314 INTO LAW.**

**ADOPTED, THIS 12th DAY OF APRIL, 1996.**

  
\_\_\_\_\_  
President, AFCA

ATTEST:   
\_\_\_\_\_  
Secretary

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO:** CSHB 314(JUD) am

Revision Date: April 9, 1996 Dept. Affected: Public Safety  
 Title: Violating Domestic Violence Orders BRU: Alaska State Troopers  
 Component: Detachments  
 Sponsor: Representative Parnell  
 Requestor: S. Judiciary COMPONENT SERIAL NO. 0799

**EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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>CHANGE IN REVENUES ( )</b> Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

**POSITIONS:**

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

**ANALYSIS: (Attach a separate page if necessary.)**

This bill will not have a fiscal impact on the Division of Alaska State Troopers. The troopers currently respond to complaints of violating a domestic violence restraining order, this bill will clarify violations of the order.

Prepared By: Lt. Dan Lowden Phone: 465-5505  
 Division: Alaska State Troopers Date: April 9, 1996  
 Approved by Commissioner: *Ronald L. Otte* Date: 4/9/96  
 Agency: Ronald L. Otte, Department of Public Safety

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## Memorandum

APR 25 1996  
11:15 AM

To: Larry Stevens of Senator Halford's office  
From: Claire Steffens, Anchorage, AK  
RE: Our telephone conversation yesterday re SENATE CS FOR CS FOR  
HOUSE BILL NO 314 (JUD)

Date: April 25, 1996

Please see that all members of the Senate Finance Committee get this information in time for the hearing today. Thank you very much for your help.

I am faxing you the proposed revisions which I suggest are needed in this bill. The cost to the judicial system and Alaskans will be enormous if some changes are not made. I did not have time to go through the entire bill as I would have liked to. Accordingly, I have faxed only the pages which I have reviewed.

This bill needs a lot more work. It is very lopsided and appears to have some serious constitutional defects.

Please keep in mind that the bill does nothing to prevent or stop domestic violence: it is punitive and after the fact. If domestic violence is to be prevented then, based on my 15 years of experience in the field, I suggest that one of the main "weapons" (as well as concerns of parents involved in domestic violence) be made a non-issue. I am referring to the children of the relationship. If the law provided that each parent would have 50/50 custody of the children, unless such custody were shown to be harmful to the child/children, the parents would have one less major subject to fight about and the race to the courthouse for domestic violence orders (to be able to snatch the children) would be over. It would also prevent the current abuses of falsely alleging domestic violence so that custody of the children can be gained. The courts are loath to upset custody arrangements established by prior (i.e., domestic violence) orders.

Thank you for your help with this matter.

Sincerely,

  
Claire Steffens

- 1 (6) sexual assault in any degree;  
2 (7) sexual abuse of a minor in any degree;  
3 (8) robbery in any degree;  
4 (9) coercion;  
5 (10) extortion;  
6 (11) arson in any degree;  
7 (12) burglary in any degree;  
8 (13) criminal mischief in the first, second, or third degree;  
9 (14) driving while intoxicated or another crime resulting from the  
10 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;  
11 (15) a crime involving domestic violence, as defined in  
12 AS 18.66.990.

13 \* Sec. 3. AS 11.41.260(a) is amended to read:

14 (a) A person commits the crime of stalking in the first degree if the person  
15 violates AS 11.41.270 and

16 (1) the actions constituting the offense are in violation of an order  
17 issued ~~or filed~~ under AS 18.66.100 - 18.66.180 or issued under former  
18 AS 25.35.010(b) or 25.35.020;

19 (2) the actions constituting the offense are in violation of a condition  
20 of probation, release before trial, release after conviction, or parole;

21 (3) the victim is under 16 years of age;

22 (4) at any time during the course of conduct constituting the offense  
23 the defendant possessed a deadly weapon;

24 (5) the defendant has been previously convicted of a crime under this  
25 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another  
26 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or  
27 AS 11.56.740; or

28 (6) the defendant has been previously convicted of a crime, or an  
29 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,  
30 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of  
31 this or another jurisdiction with elements similar to a crime, or an attempt or

solicitation to commit a crime, under AS 11.41.100 - 11.41.250. 11.41.300 - 11.41.460. AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

\* Sec. 4. AS 11.46.350(a) is amended to read:

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010(b) or 25.35.020.

\* Sec. 5. AS 11.56.740(a) is amended to read:

(a) A person commits the crime of violating a

~~(1) protective order if the person is subject to a protective order containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act in violation of that provision;~~

~~(2) domestic violence restraining order if [(1)] the person knowingly violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or 25.35.020~~

~~(A) restraining the person from communicating directly or indirectly with another; and~~

~~(B) [(2)] at the time the restraining order was issued, the court made a finding that the person had subjected another to domestic violence.~~

\* Sec. 6. AS 11.56.740 is amended by adding new subsections to read:

~~(c) It is not a defense to a prosecution under (a) of this section that the person who obtained the order initiated the contact or invited the defendant into the residence of that person, regardless of ownership of the residence, or into a propelled vehicle in the possession of or occupied by that person.~~

(d) In this section, "protective order" means an order issued or filed under

*IT SHOULD NOT BE A CRIME TO VIOLATE A CIVIL COURT ORDER.*  
*THIS IS STRICT LIABILITY + VIOLATES THE CONSTITUTIONAL NEED FOR MENTAL INTENT NEEDED FOR A CRIME.*

*Usually she contacts him to entrap or to reconcile.*

1 AS 18.66.100 - 18.66.180.

2 \* Sec. 7. AS 11.61.200(a)(8) is amended to read:

3 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining  
4 unlawfully on premises or in a propelled vehicle in violation of a provision of an order  
5 issued ~~or filed~~ under AS 18.66.100 - 18.66.180 or issued under former  
6 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a  
7 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

8 \* Sec. 8. AS 12.25.030(b) is repealed and reenacted to read:

9 (b) In addition to the authority granted by (a) of this section, a peace officer

10 (1) shall make an arrest under the circumstances described in  
11 AS 18.65.530;

12 (2) without a warrant may arrest a person if the officer has probable  
13 cause to believe the person has, either in or outside the presence of the officer

14 (A) committed a crime involving domestic violence, whether the  
15 crime is a felony or a misdemeanor; in this subparagraph, "crime involving  
16 domestic violence" has the meaning given in AS 18.66.990;

17 (B) committed the crime of violating a protective order in  
18 violation of AS 11.56.740; or

19 (C) violated a condition of release imposed under AS 12.30.025  
20 or 12.30.027;

21 (3) without a warrant may arrest a person when the peace officer has  
22 reasonable cause for believing that the person has

23 (A) committed a crime under or violated conditions imposed as  
24 part of the person's release before trial on misdemeanor charges brought under

25 (i) AS 04.16.050 or an ordinance with similar elements;

26 or

27 (ii) AS 11.41.270;

28 (B) violated AS 04.16.050; however, unless there is a lawful  
29 reason for further detention, a person who is under the age of 18 and who has  
30 been arrested for violating AS 04.16.050 shall be cited for the offense and  
31 released to the person's parent, guardian, or legal custodian; or

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1 AS 11.61.190 - 11.61.210, or a crime involving domestic violence. [AS 11.56.810,  
2 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a  
3 continuing threat to the victim of or witness to the offense charged, the court shall  
4 protect the address and telephone number of the victim or witness by providing the  
5 information only to a person specified by the court or by imposing other restrictions  
6 that the court considers necessary. When an address or telephone number is released  
7 to a person specified by the court under this subsection, that person, who shall be  
8 ordered not to disclose the information to the defendant, shall contact the victim or  
9 witness on behalf of the defendant, and the defendant shall meet or speak with the  
10 victim or witness only in the presence of that person.

11 \* Sec. 18. AS 12.61.120(c) is amended to read:

12 (c) If ~~a defendant or a person acting on behalf of a defendant~~  
13 *keep* REPRESENTING THE DEFENDANT; INCLUDING THE DEFENDANT'S  
14 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS  
15 SECTION,] contacts the victim of an offense with which the defendant is ~~or could be~~  
16 charged, the person shall clearly inform the victim

17 (1) of the person's identity and specific association with the defendant;

18 (2) that the victim does not have to talk to the person unless the victim  
19 wishes; and

20 (3) that the victim may have a prosecuting attorney or other person  
21 present during an interview.

22 \* Sec. 19. AS 12.61.120 is amended by adding new subsections to read:

23 (d) If a defendant or a person acting on behalf of a defendant wishes to make  
24 a recording of statements of the victim of an offense with which the defendant is ~~or~~  
25 ~~could be charged~~ *charged* in this or another jurisdiction, ~~or of a witness,~~ the person shall, before  
26 recording begins, obtain the consent of the victim ~~or witness~~ to record the statement by  
27 clearly informing the victim ~~or witness~~ (1) of the information set out in (c) of this  
28 section, (2) that the statement will be recorded if the victim ~~or witness~~ consents, and (3)  
29 that the victim ~~or witness~~ may obtain a transcript or other copy of the recorded statement  
30 upon request. When recording begins, the person making the recording shall indicate in  
31 the recording that the victim ~~or witness~~ has been informed as required by this subsection,  
32 and the victim ~~or witness~~ shall state in the recording that consent of the victim ~~or witness~~

1 to the recording has been given.

2 (e) If a victim or witness requests a transcript or other copy of a recorded  
3 statement taken under (d) of this section, the defense shall prepare the transcript or other  
4 copy and provide it to the person whose statement was recorded.

5 (f) In this section, "recording" means capturing a statement of a person, whether  
6 by magnetic tape or other electronic or electromagnetic means.

7 \* Sec. 20. AS 12.61 is amended by adding new sections to read:

8 Sec. 12.61.125. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a)

9 The defendant accused of a sexual offense, the defendant's counsel, or an investigator  
10 or other person <sup>representing</sup> ~~acting on behalf of~~ the defendant, may not

11 (1) notwithstanding AS 12.61.120, contact the victim of the offense or  
12 ~~a witness to the offense if the victim or witness~~, or the parent or guardian of the victim  
13 ~~or witness if the victim or witness~~ is a minor, has informed the defendant or the  
14 defendant's counsel in writing or in person that the victim ~~or witness~~ does not wish to  
15 be contacted by the defense; a victim ~~or witness~~ who has not informed the defendant or  
16 the defendant's counsel in writing or in person that the victim does not wish to be  
17 contacted by the defense is entitled to rights as provided in AS 12.61.120;

18 (2) obtain a statement from the victim of the offense ~~or a witness to the~~  
19 ~~offense~~, unless,

20 (A) if the statement is taken as a recording, the recording is taken  
21 in compliance with AS 12.61.120; or

22 (B) if the statement is not taken as a recording, written  
23 authorization is first obtained from the victim ~~or witness~~, or from the parent or  
24 guardian of the victim ~~or witness~~ if the victim ~~or witness~~ is a minor; the written  
25 authorization must state that the victim ~~or witness~~ is aware that there is no legal  
26 requirement that the victim ~~or witness~~ talk to the defense; a victim ~~or witness~~  
27 making a statement under this subparagraph remains entitled to rights as provided  
28 in AS 12.61.120.

29 (b) A defendant who is the parent or guardian of a minor victim ~~or witness~~ may  
30 not provide the authorization required under (a) of the section.

31 ~~(c) If an attorney, or a person acting on behalf of the defendant or an attorney,~~  
32 ~~violates this section, the court shall refer the violation to the Disciplinary Board of the~~

1 ~~Alaska Bar Association as a grievance.~~

2 (d) In this section,

3 (1) "recording" has the meaning given in AS 12.61.120;

4 (2) "sexual offense" means a violation of AS 11.41.410 - 11.41.470.

5 Sec. 12.61.127. INADMISSIBILITY OF STATEMENTS TAKEN IN  
6 VIOLATION OF AS 12.61.120 or 12.61.125. A statement obtained from a victim or  
7 ~~witness~~ in violation of AS 12.61.120 or 12.61.125 is presumed inadmissible in a  
8 prosecution of the defendant. To overcome the presumption of inadmissibility, the  
9 defendant must prove by clear and convincing evidence that

10 (1) the statement is reliable;

11 (2) similar evidence is unavailable from any other source; and

12 (3) failure to introduce the statement would substantially undermine the  
13 reliability of the fact-finding process and result in manifest injustice.

14 \* Sec. 21. AS 12.61.900 is amended by adding new paragraphs to read:

15 (3) "crime involving domestic violence" has the meaning given in  
16 AS 18.66.990;

17 (4) "person acting on behalf of a defendant" includes the defendant's  
18 attorney, an <sup>authorized</sup> agent of the defendant or the defendant's attorney, or a person specified by  
19 the court under AS 12.61.120(b) ~~or an agent of that person~~, but does not include the  
20 defendant;

21 (5) "witness" means a person contacted in connection with a criminal  
22 case because the person may have knowledge or information about the criminal case.

23 \* Sec. 22. AS 12.62.900(22) is amended to read:

24 (22) "serious offense" means a conviction for a felony offense, a crime  
25 involving serious domestic violence, <sup>involving more than fear</sup> or a violation or attempted violation of any of the  
26 following laws, or of the laws of another jurisdiction with substantially similar  
27 elements:

28 (A) AS 11.41.410 - 11.41.470;

29 (B) AS 11.51.130(a)(1), (3), or (5);

30 (C) AS 11.61.110(a)(7);

31 (D) AS 11.66.100 - 11.66.130; or

32 (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -

1 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)  
 2 of this section, a peace officer, with or without a warrant, shall arrest a person if the  
 3 officer has probable cause to believe the person has, either in or outside the presence  
 4 of the officer, within the previous 12 hours,

5 (1) committed domestic violence, except an offense under  
 6 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

7 (2) committed the crime of violating a protective order in violation of  
 8 AS 11.56.740;

9 (3) violated a condition of release imposed under AS 12.30.027.

10 (b) If a peace officer receives complaints of domestic violence from more than  
 11 one person arising from the same incident, the officer shall evaluate the conduct of  
 12 each person to determine who was the principal physical aggressor. If the officer  
 13 determines that one person was the principal physical aggressor, the other person or  
 14 persons need not be arrested. In determining whether a person is a principal physical  
 15 aggressor, the officer shall consider

16 (1) prior complaints of domestic violence;

17 (2) the relative severity of the injuries inflicted on each person;

18 (3) the likelihood of future injury from domestic violence to each  
 19 person; and

20 (4) whether one of the persons acted in defense of self or others.

21 (5) ~~that no gender preference or bias may be part of the determination~~  
 (c) A peace officer is not required to make an arrest under (a) of this section *at will*

22 if the officer has received authorization not to arrest from a prosecuting attorney in the  
 23 jurisdiction in which the offense under investigation arose.

24 (d) When investigating a crime involving domestic violence, a peace officer  
 25 may not threaten or suggest the possible arrest of all persons involved in the same.

26 incident in a manner that would have a tendency to discourage requests for  
 27 intervention by law enforcement in incidents involving domestic violence. *unless all*

28 *or more than one person was engaged in an act of domestic violence.*  
 (e) In addition to the contents of any other report, a peace officer who does

29 not make an arrest after investigating a complaint of domestic violence, or who arrests  
 30 two or more persons based on the same incident, shall describe in writing the reasons  
 31 for not making an arrest or for arresting more than one person.

1 (f) A person may not bring a civil action for damages for a failure to comply  
2 with the provisions of this section.

3 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)  
4 The Department of Public Safety shall maintain a central registry of protective orders  
5 issued by or filed with a court of this state under AS 18.66.100 - 18.66.180. The  
6 registry must include for each protective order the names of the petitioner and  
7 respondent, their dates of birth, and the conditions and duration of the order. The  
8 ~~registry shall retain a record of the protective order after it has expired.~~

9 (b) A peace officer receiving a protective order from a court under  
10 AS 18.66.100 - 18.66.180, a modified order issued under AS 18.66.120, or an order  
11 dismissing a protective order, must take reasonable steps to ensure that the order,  
12 modified order, or dismissal is entered into the central registry within 24 hours after  
13 being received.

14 (c) A petitioner or respondent who is the subject of a protective order may  
15 request the Department of Public Safety to correct information about the order in the  
16 central registry. *The person must be provided with the information via the registry.*  
17 The person requesting the correction has the burden of proving that *pertinent*  
18 the information is inaccurate or incomplete. The person may appeal an adverse *to that person*  
19 decision to the court under applicable court rules for appealing the decision of an *on*  
20 administrative agency. On appeal, the appellant has the burden of showing that the *demanded*  
21 department's ~~action was an abuse of discretion.~~ *at no cost*  
22 *or nominal*  
23 *cost.* information is incorrect. An appeal filed under this subsection  
24 may not collaterally attack a protective order, challenge the grounds upon which the  
25 order was based, or challenge the evidence submitted in support of the order.

26 (d) The Department of Public Safety may adopt regulations to implement this  
27 section.

28 (e) A person may not bring a civil action for damages for a failure to comply  
29 with the provisions of this section.

30 Sec. 18.65.590. DEFINITION. In AS 18.65.510 - 18.65.590, "domestic  
31 violence" has the meaning given in AS 18.66.990.

\* Sec. 30. AS 18.65.705 is amended to read:

Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is  
qualified to receive and hold a permit to carry a concealed handgun if the person

1 suspended imposition of sentence.

2 \* Sec. 32. AS 18.66.050 is amended by adding new paragraphs to read:

3 (12) consult with the Department of Health and Social Services in the  
4 formulation of standards and procedures for the delivery of services to victims of  
5 domestic violence by health care facilities and practitioners of healing arts and  
6 personnel in those facilities as required in AS 18.66.300;

7 (13) consult with the Alaska Police Standards Council and other police  
8 training programs in the state to develop training programs regarding domestic violence  
9 for police officers and for correction, probation, and parole officers;

10 (14) consult with public employers, the Alaska Supreme Court, school  
11 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to  
12 provide continuing education courses in domestic violence to employees.

13 \* Sec. 33. AS 18.66 is amended by adding new sections to read:

14 ARTICLE 2. PROTECTIVE ORDERS.

15 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;  
16 RELIEF. (a) A person who is or has been a victim of a ~~crime~~ involving domestic  
17 violence may file a petition in the ~~district~~ or superior court for a protective order  
18 against a household member. A parent, guardian, or other representative appointed by  
19 the court under this section, may file a petition for a protective order on behalf of a  
20 minor. The court may appoint a guardian ad litem or attorney to represent the minor.

21 (b) When a petition for a protective order is filed, the court shall schedule a  
22 hearing, and provide at least 10 days' notice to the respondent of the hearing and of  
23 the respondent's right to appear and be heard, either in person or by an attorney. If  
24 the court finds by a preponderance of evidence that the respondent has committed a  
25 crime involving domestic violence against the petitioner, regardless of whether the  
26 respondent appears at the hearing, the court may order any relief available under (c)  
27 of this section. The provisions of a protective order issued

28 ~~(1) under (c)(1), (2), (4), or (5) of this section are effective until further~~  
29 ~~order of the court,~~

30 ~~(2) under (c)(3) or (6) - (16) of this section are effective for one year~~  
31 unless earlier dissolved by court order.

(c) A protective order under this section may

(1) prohibit the respondent from threatening to commit or committing domestic violence;

(2) prohibit the respondent from stalking or harassing the petitioner or telephoning, contacting, or otherwise communicating directly or indirectly with the petitioner;

(3) remove and exclude the respondent from the residence of the petitioner, <sup>unless respondent is</sup> ~~regardless of ownership~~ of the residence, <sup>then petitioner must be excluded.</sup>

(4) direct the respondent to stay away from the residence, school <sup>or petitioner's</sup> or <sup>a student</sup> place of employment of the petitioner or any specified place frequented by the petitioner or any designated household member <sup>who also has been the subject of domestic violence;</sup>

(5) prohibit the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner;

(6) prohibit the respondent from using or possessing a deadly weapon if the court finds the respondent used, or threatened to use, a weapon in the domestic violence or in future domestic violence;

(7) direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent used, or threatened to use, a firearm in the domestic violence or in future domestic violence;

(8) request a peace officer to accompany the petitioner to the ~~petitioner's~~ residence to ensure that the petitioner

(A) safely obtains possession of the ~~petitioner's~~ residence, vehicle, or personal items; and

(B) is able to safely remove a vehicle or personal items from the ~~petitioner's~~ residence;

(9) award temporary custody of a minor child to the petitioner and may arrange for visitation with a minor child if the safety of the child ~~and the petitioner~~ can be protected; <sup>either parent if</sup> ~~if visitation is allowed, the court may order visitation under the conditions provided in AS 25.20.061;~~ <sup>the court finds it in the child's best interests</sup>

(10) give the petitioner possession and use of <sup>petitioner's</sup> a vehicle and other essential personal items, ~~regardless of ownership of the items.~~

*How are shelters and other options.*

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(11) prohibit the ~~respondent~~ <sup>petitioner and/or respondent</sup> from consuming controlled substances; <sup>or alcohol</sup>

(12) require the respondent to pay support for the ~~petitioner~~ or a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the ~~petitioner~~ or child;

(13) require the respondent to reimburse the petitioner or other person for expenses associated with the domestic violence, including medical expenses, counseling, shelter, and repair or replacement of damaged property;

(14) require the respondent to pay costs and fees incurred by the petitioner in bringing the action under this chapter;

(15) order the respondent, <sup>and/or petitioner</sup> at ~~the respondent's~~ <sup>their individual</sup> expense, to participate in (A) a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment for the abuse of alcohol or controlled substances, or both;

(16) order other relief the court determines necessary to protect the petitioner or any household member.

(d) If the court issues a protective order under this section, it shall

(1) make reasonable efforts to ensure that the order is understood by the petitioner and by the respondent, if present; and

(2) have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.

~~(e) A court may not deny a petition for a protective order under this section solely because of a lapse of time between an act of domestic violence and the filing of the petition.~~

*This would allow 10 year old arguments to serve as basis for DV orders. BAD IDEA!*

Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.

(a) A person who is a victim of a crime involving domestic violence may file a petition under AS 18.66.100(a) and request an ex parte protective order. If the court finds that the petition establishes probable cause that a crime involving domestic violence has occurred, it is necessary to protect the petitioner from domestic violence, and if the petitioner has certified to the court in writing the efforts, if any, that have been made to provide notice to the respondent, the court shall ex parte and without

*Appeal could  
lose their home,  
car, & property  
due to ex parte  
order. 8 That  
10 bad.*

notice to the respondent issue a protective order. An ex parte protective order may grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex parte protective order expires <sup>5</sup>20 days after it is issued unless dissolved earlier by the court at the request of either the petitioner or the respondent, ~~and after notice and, if requested, a hearing, or unless extended by the court at the request of the petitioner.~~

If the order is extended, the court shall enter into the record the reasons for the extension. ~~If a court issues an ex parte protective order, the court shall have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.~~

(b) A peace officer, on behalf of and with the consent of a victim of a crime involving domestic violence, may request an emergency protective order from a judicial officer. The request may be made orally or in writing based upon the sworn statement of a peace officer, and in person or by telephone. ~~If the court finds probable cause to believe that the victim is in immediate danger of domestic violence based on an allegation of the recent commission of a crime involving domestic violence, the court ex parte shall issue an emergency protective order. In an emergency protective order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8), (10), (11), and (16). An emergency protective order expires 72 hours after it is issued unless dissolved earlier by the court at the request of the petitioner.~~

(c) A peace officer who obtains an emergency protective order under (b) of this section shall

- (1) place the provisions of an oral order in writing on a form provided by the court and file the written order with the issuing court by the end of the judicial day after it was issued;
- (2) provide a copy of the order to the petitioner;
- (3) serve a copy of the order on the respondent; and
- (4) comply with the requirements of AS 18.65.540 for ensuring that the order is entered into the central registry of protective orders under AS 18.65.540.

~~(d) A court may not deny a petition for an ex parte protective order filed under (a) of this section solely because of a lapse of time between an act of domestic violence and the filing of the petition.~~

*the court may not extend an ex parte order unless the respondent has been given an opportunity to be present at a hearing on the order, but the victim must also testify to the court.*

1 Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either  
2 the petitioner or the respondent may request modification of a protective order. If a  
3 request is made for modification of

4 (1) an ex parte protective order under AS 18.66.110(a), the court shall  
5 schedule a hearing on three days' notice or on shorter notice as the court may  
6 prescribe; the court shall hear and rule on the request in an expeditious manner; or

7 (2) a protective order after notice and hearing under AS 18.66.100(b),  
8 the court shall schedule a hearing within 20 days after the date the request is made,  
9 except that if the court finds that the request is meritless on its face, the court may  
10 deny the request without further hearing.

11 (b) If a request for a modification is made under this section and the  
12 respondent raises an issue not raised by the petitioner, the court may allow the  
13 petitioner additional time to respond.

*5 days*  
*The children of the respondent shall be allowed visitation with respondent during the pending proceedings,*

14 (c) If the court modifies a protective order under this section, it shall issue a  
15 modified order and shall

16 (1) make reasonable efforts to ensure that the order is understood by  
17 the petitioner and by the respondent, if present at the hearing; and

18 (2) have the order delivered to the appropriate local law enforcement  
19 agency for expedited service and for entry into the central registry of protective orders  
20 under AS 18.65.540.

21 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in  
22 a protective order issued under AS 18.66.100 - 18.65.180 is prohibited from  
23 communicating with the petitioner, excluded from the residence of the petitioner, or  
24 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an  
25 invitation by the petitioner to communicate, enter the residence or vehicle, or have  
26 other prohibited contact with the petitioner does not waive or nullify any provision in  
27 a protective order, but the petitioner shall be subject to penalties for  
28 violation of the protective order.

*NEEDS  
DUPPETE,  
Petitioner is  
not on  
- agreed  
- increased  
- got to contribute first*

29 (b) A court may ~~not~~ grant protective orders against the petitioner and the  
30 respondent in the same action under this chapter.

31 (c) A court may not order parties into mediation or refer them to mediation  
32 for resolution of the issues arising from a petition for a protective order under

1 AS 18.66.100 - 18.66.180.

2 (d) In addition to other required information contained in a protective order,  
3 the order must include in bold face type the following statements:

4 (1) "Violation of this order may be a misdemeanor, punishable by up  
5 to one year of incarceration and up to a \$5,000 fine";

6 (2) "If you are ordered to have no contact with <sup>a person</sup> ~~the petitioner~~ or to stay  
7 away from <sup>a persons</sup> ~~the petitioner's~~ residence, vehicle, or other place designated by the court,  
8 an invitation by <sup>that person</sup> ~~the petitioner~~ to have the prohibited contact or to be present at or enter  
9 the residence, vehicle, or other place does not in any way invalidate or nullify the  
10 order."

11 (e) A protective order issued under this chapter is in addition to and not in  
12 place of any other civil or criminal remedy. A petitioner is not barred from seeking  
13 an order under AS 18.66.100 - 18.66.180 because of the existence of another civil  
14 action between the petitioner and respondent.

15 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS  
16 ISSUED IN OTHER STATES. (a) A certified copy of an unexpired protective order  
17 issued in another jurisdiction may be filed with the clerk of court in any judicial  
18 district in this state.

19 (b) A protective order filed in accordance with (a) of this section has the same  
20 effect and must be enforced in the same manner as a protective order issued by a court  
21 of this state.

22 (c) When a protective order is filed with the court under this section, the court  
23 shall have the order delivered to the appropriate local law enforcement agency for  
24 entry into the central registry of protective orders under AS 18.65.540.

25 Sec. 18.66.150. FORMS FOR PETITIONS AND ORDERS; FEES. (a) The  
26 Alaska Court System, after consulting with the Council on Domestic Violence and  
27 Sexual Assault and other interested persons and organizations, shall prepare forms for  
28 petitions, protective orders, and instructions for their use by a person seeking a  
29 protective order under this chapter. The forms must conform to the Alaska Rules of  
30 Civil Procedure, except that information on the forms may be filled in by legible  
31 handwriting.

1 consultation with the Council on Domestic Violence and Sexual Assault, provide  
2 continuing education in domestic violence for judicial officers and court clerks who  
3 have contact with parties involved in domestic violence.

4 (c) The Department of Law and other prosecuting authorities in the state shall,  
5 in consultation with the Council on Domestic Violence and Sexual Assault, provide  
6 continuing education in domestic violence for prosecuting attorneys and other  
7 employees who have contact with persons involved in domestic violence.

8 (d) The continuing education required under (a) - (c) of this section must  
9 include information on the following subjects:

- 10 (1) the nature, extent, and causes of domestic violence;  
11 (2) procedures designed to promote the safety of the victim and other  
12 household members;  
13 (3) resources available to victims and perpetrators of domestic violence;  
14 and  
15 (4) the lethality of domestic violence.

16 ARTICLE 4. GENERAL PROVISIONS.

17 Sec. 18.66.990. DEFINITIONS. In this chapter,

- 18 (1) "council" means the Council on Domestic Violence and Sexual  
19 Assault;  
20 (2) "crisis intervention and prevention program" means a community  
21 program that provides information, education, counseling, and referral services to  
22 individuals experiencing personal crisis related to domestic violence or sexual assault  
23 and to individuals in personal or professional transition, excluding correctional half-  
24 way houses, outpatient mental health programs, and drug or alcohol rehabilitation  
25 programs;  
26 (3) "domestic violence" and "crime involving domestic violence" mean  
27 one or more of the following offenses or a law or ordinance of another jurisdiction  
28 having elements similar to these offenses, ~~or an attempt to commit the offense~~, by a  
29 household member against another household member:

30 (A) a crime against the person under AS 11.41;

31 ~~(B) burglary under AS 11.46.300 - 11.46.310;~~

*How is this domestic violence?*

*Amended*

*depletive*

*within the last 5 years.*

- 1 ~~(C) criminal trespass under AS 11.46.320 - 11.46.330;~~
- 2 ~~(D) arson or criminally negligent burning under AS 11.46.400 -~~
- 3 11.46.430;
- 4 ~~(E) criminal mischief under AS 11.46.480 - 11.46.486;~~
- 5 ~~(F) terroristic threatening under AS 11.56.810;~~
- 6 (G) violating a domestic violence order under AS 11.56.740; or
- 7 (H) harassment under AS 11.61.120(a)(2) - (4);
- 8 (4) "domestic violence program" means a program that provides
- 9 services to the victims of domestic violence, their families, or perpetrators of domestic
- 10 violence;
- 11 (5) "household member" includes
- 12 (A) adults or minors who are current or former spouses;
- 13 (B) adults or minors who live together or who have lived
- 14 together; *within the last 5 years.*
- 15 (C) adults or minors who are dating or who have dated; *within the last 5 years.*
- 16 (D) adults or minors who are engaged in or who have engaged
- 17 in a sexual relationship; *within the last 5 years*
- 18 (E) adults or minors who are related to each other up to the
- 19 fourth degree of consanguinity, whether of the whole or half blood or by
- 20 adoption, computed under the rules of civil law;
- 21 ~~(F)~~ adults or minors who are related or formerly related by
- 22 marriage;
- 23 (G) persons who have a child of the relationship; and
- 24 (H) minor children of a person in a relationship that is described
- 25 in (A) - (G) of this paragraph;
- 26 (6) "local community entity" means a city or borough or other political
- 27 subdivision of the state, a nonprofit organization, or a combination of these;
- 28 (7) "judicial day" means any Monday through Friday that is not a state
- 29 holiday and on which the court clerk's offices are officially opened to receive legal
- 30 documents for filing;
- 31 (8) "petitioner" includes a person on whose behalf an emergency

# Alaska State Legislature

REPRESENTATIVE  
SEAN R. PARNELL



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## HOUSE OF REPRESENTATIVES

### SPONSOR STATEMENT House Bill 314

HB 314 strengthens Alaska's domestic violence prevention and intervention laws by adopting new and uniform laws based on the Model Code on Domestic and Family Violence, which was developed by the National Council of Juvenile and Family Court Judges.

HB 314 adopts model code language on domestic violence protection to establish additional protective order provisions and crimes for violating a protective order. HB 314 enhances current domestic violence response procedures through improved laws, education, and training which are highlighted in the establishing of: (1) mandatory arrest policy in domestic violence situations, (2) training for police agencies as well as professionals in the justice system who interact with victims of domestic violence, and (3) a central protective order registry.

Additionally, HB 314 prohibits surreptitious taping of crime victims and witnesses by the defense or those working for the defense. The bill also protects domestic violence and sexual assault victims and witnesses by requiring defense attorneys or those working for the defense to identify themselves and gain written consent to an interview.

Recently, the Alaska Bar Association adopted a rule to permit surreptitious taping. This rule allowing taping, without a person's notice or consent, is an alarming encroachment on privacy and was passed by the Bar Association's Board of Governors over the dissent of the Bar Association's own ethics committee (Ethics Committee letter attached).

HB 314 will bring much needed protection to victims and witnesses of violent crimes. The bill provides effective tools for the continuing work of preventing domestic violence in our state. This legislation is strongly supported by the victims rights community. I respectfully request your support.

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

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January 11, 1996

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P.O. Box 100279  
Anchorage, Alaska 99501

Dear Ms. O'Regan:

I am writing on behalf of the Alaska Council on Domestic Violence and Sexual Assault to reiterate our deep concern stated in our April 1995, letter, over the Alaska Bar Association's adoption of the policy that allows defense attorneys to surreptitiously record interviews of witnesses in criminal cases. It is my understanding that this rule was adopted without the Bar Association's own Ethics Committee's endorsement. We believe this rule is in direct conflict with the intent of Alaska's Rights of Victims statutes.

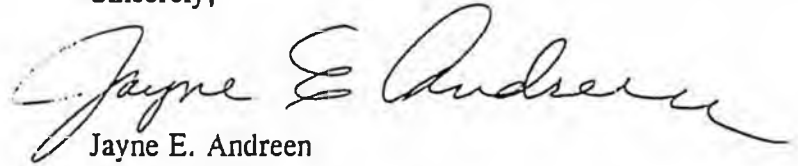
I further understand that the ABA's rationale for adopting this rule is based on the existence of AS 12.61.120 (c) which requires that any person representing the defendant must identify him/herself to the victim when making contact. The law is very clear that the representative must explain the relationship to the defendant and inform the victim of his/her right to refuse to talk to them. Victims also have the right to have someone else, including the prosecutor, present during the interview. The intent of this law is quite obvious; to allow a victim the opportunity to make an informed decision about whether or not to speak to the defense.

This law is necessary for a variety of reasons. Many victims of crime are not knowledgeable about the criminal justice systems. It is overwhelming to give a statement to law enforcement, let alone to deal with the prosecution and defense. This is also a time of crisis for victims who may be dealing with emotional, physical and financial hardships due to the crime. These factors, combined with the past unscrupulous actions of defendants, defense attorneys and their representatives, necessitated the state's action in adopting this statute to protect victims.

For the Alaska Bar Association to use a rationale that by identifying oneself to a victim gives one the authority to secretly tape that victim goes beyond the stretch of the Council's imagination. It is this type of unethical behavior that makes people so suspicious of the legal system. We ask you to rescind this rule in light of the intent of the law. Justice for defendants cannot be used as a rationale for exploiting crime victims.

I wish that I could be present for tomorrow's public hearing, but I only became aware of the meeting this week. Unfortunately, scheduling conflicts preclude my ability to travel to Anchorage. I would strongly encourage the Bar Association to consider teleconferencing public hearings in the future in order to allow full participation throughout the state.

Sincerely,

A handwritten signature in cursive script that reads "Jayne E. Andreen". The signature is written in dark ink and is positioned above the printed name and title.

Jayne E. Andreen  
Executive Director

cc: Council Members  
Alaska Network on Domestic Violence and Sexual Assault  
Representative Sean Parnell



## Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

February 2, 1996

Representative Sean Parnell  
State Capitol, Room 505  
Juneau, AK 99801-1182

Dear Representative Parnell:

I am writing to you regarding House Bill No. 314. This bill is crucial to broadening the accountability for domestic violence offenses and to the fair treatment of victims of crimes. As you know, the components of this Bill include:

Reinforcing that domestic violence is unacceptable by expanding the number of restraining order violations for which perpetrators will be held criminally responsible.

Defendants or persons acting on behalf of defendants who wish to speak to victims to clearly inform the victim of their identity and association with the defendant; the victim does not have to talk to that person unless the victim wishes; and the victim may have a prosecuting attorney or other person present during an interview.

Both the recognition of domestic violence as a crime and acknowledgment of the rights of victims are crucial to the enforcement process. Only an informed victim can fully and fairly participate in the proceedings which determine the degree of guilt or innocence of the alleged perpetrator.

The Alaska Women's Resource Center supports House Bill No. 314 as an integral part of the law enforcement process.

Sincerely,

Diane J. Heard  
Executive Director



## S. T. A. R.

February 1, 1996

Business 907/276-7279  
24 Hour Crisis 907/276-7273  
Toll Free 1-800-478-8999  
TIDY 907/278-9988

Representative Sean Parnell  
515 Capital Building  
Juneau, AK 99801

Dear Representative Parnell:

We support the passage of **House Bill No. 314**. This bill requires defendants or persons acting on behalf of defendants to clearly inform the victim of their identity and association with the defendant; that the victim does not have to talk to that person unless the victim wishes; and that the victim may have a prosecuting attorney or other person present during an interview.

As an agency that works with and for victims of sexual assault, we realize how critical it is to have a system that is supportive and responsive to victims' needs. After an assault where a victim was left powerless, it is an important part of the healing process to help victims understand their rights and choices. Victims have a right to be clearly informed so that they can choose what is best for them.

We wholeheartedly support Representative Parnell's effort to ensure that victims are informed and protected against surreptitious taping.

Thank you

Sincerely,

Trisha Gentle  
Executive Director  
Standing Together Against Rape

**STANDING TOGETHER AGAINST RAPE**

1057 W. Fireweed, Suite 230 • Anchorage, Alaska 99503



A United Way Agency



*Rick Mystrom,  
Mayor*

# ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



*Service since 1921*

January 31, 1996

Representative Sean R. Parnell  
Alaska State Legislature  
State Capitol (MS 3000)  
Juneau, Alaska 99801-1182

Dear Representative Parnell,

We support your efforts on three House Bills that you have introduced. They are House Bills 25, 314, and 326.

House Bill 25 would allow reciprocal discovery between the prosecution and the defense in criminal matters. Under current law the defense enjoys an unfair advantage because they don't have to divulge information to the prosecution that may be critical at trial. The public and the defendant both deserve a fair trial, and your bill would help level the playing field.

House Bill 314 would strengthen our domestic violence laws by affording victims more protection under the law when a Temporary Restraining Order is issued by a court. We need the additional specificity contained in House Bill 314.

House Bill 326 would reverse what we think was a mistake on the part of the Bar Association when they adopted a rule that allows for surreptitious taping without a person's notice or consent. Victims should not be subjected to this type of taped recording.

We thank you for introducing these bills. If we can be of any assistance, please contact my office.

Sincerely,

Duane S. Udland  
Deputy Chief

STATE OFFICE  
**ALASKA PEACE OFFICERS ASSOCIATION**

P.O. Box 240106

Anchorage, Alaska 99524-0106

Phone (907) 277-0515

Fax (907) 272-5355

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Wrangell  
Pres. Wrangell ChapterLeroy Mcaloo, Member  
Ketchikan  
Pres. First City ChapterJames See, Member  
Craig  
Pres. Prince of Wales Chapter

February 5, 1996

Representative Sean Parnell  
 Alaska State Legislature  
 State Capitol (MS 3100)  
 Juneau AK 99801-1132

Dear Representative Parnoll,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 326 relating to contacts between the defense and crime victims and witnesses, etc. At a recent meeting of the APOA State Board, we unanimously decided to support this piece of legislation. We agree that there have been abuses in the last year since the Alaska Bar Association changed its rules on the recording of victim/witness statements.

In conversation during our meeting, we heard of instances where people from the defense team have purposely led victims/witnesses to believe they were talking with someone from the District Attorney's Office. The phrase "I work with the DA's Office," may not be a technical lie (since the defense people do work with the people in the District Attorney's Office) but it is deliberately misleading. Clearly, victims and witnesses are not drawing the distinction between working with and working for.

The ABA was given the privilege, they abused it, they lose the privilege. It's pretty simple.

We encourage you to call on us when there are teleconference hearings, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please contact me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely

Michael Corkill  
 State President



# City and Borough of Sitka

## POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

John H. Newell  
Chief of Police

Business 747-3245  
Fax 747-1075

February 2, 1996


Representative Sean Parnell  
House of Representatives  
State Capitol, Juneau, AK 99801-1182

Representative Parnell,

I support HB 314.

Domestic Violence situations continue to be a problem in most of our communities. The proposed changes in HB 314 strengthen the law and reduces the opportunity for the threat of or accomplishment of physical harm to a victim of domestic violence.

Sincerely,

  
John H. Newell  
Chief of Police



# City and Borough of Sitka

## POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

John H. Newell  
Chief of Police

Business 747-3245  
Fax 747-1075

February 2, 1996

**Representative Sean Parnell**  
House of Representatives  
State Capitol, Juneau, AK 99801-1182

Representative Parnell,

In support of the Victims Rights Community, I support HB 326. I agree that a disclosure by the defense should be required when contacting crime victims and witnesses.

Sincerely,

John H. Newell  
Chief of Police

ALASKA BAR ASSOCIATION  
ETHICS COMMITTEE

Dan Winfree, President  
Alaska Bar Association  
Board of Governors  
510 L. St., Suite 602  
Box 100279  
Anchorage, Alaska 99501

Re: Alaska Bar Association ethics opinion regarding  
undisclosed tape recording of conversations with  
potential witnesses in criminal cases

Dear Mr. Winfree:

After extended discussion at our April 6, 1995, meeting, the Ethics Committee of the Alaska Bar Association unanimously requests that the Board of Governors reconsider its decision of March 17, 1995, adopting an ethics opinion allowing undisclosed recording of conversations with potential witnesses by criminal defense lawyers and their agents. We seek reconsideration for two reasons: (1) the unusual and problematic procedure by which the proposed opinion was considered by the Board; and (2) the possibility that the Board misinterpreted the Ethics Committee's actions in responding to previous Board direction.

1. The Board's procedure.

The Board's agenda did not serve to alert interested persons that the matter of a proposed opinion on the subject of surreptitious taping would be considered. Yet the Board considered, and ultimately adopted, an opinion which had not been provided to the Ethics Committee for review or comment and which was proposed by a lawyer who had a direct interest in the result. Such a procedure diminishes the value of the scholarship and debate which ensure consistency and quality in the Bar's Ethics Opinions. Indeed, the procedure used by the Board in this instance deprived it of the benefit of the detailed review of the issue conducted by the Ethics Committee over the last several years. The surreptitious tape recording of Alaska citizens by officers of the court is not a matter that should be decided after a brief debate in the midst of a crowded agenda, but deserves the deliberate consideration that the Ethics Committee has given it over the years.

Dan Winfree, President  
April 20, 1995  
Page 2

2. The Ethics Committee's previous actions.

The Echics Committee's determination in its February 2, 1995, meeting to postpone indefinitely any further consideration for change in the existing opinions was not a decision to avoid the issue. Instead, it was a determination that existing authority stated the right result; no purpose would be served by drafting another opinion.

It cannot be overemphasized that our position on the question of surreptitious recording was reached after many months of debate and detailed examination of the issue. Among the many views presented and rigorously examined and debated were those expressed in the Board's opinion. They were, however, ultimately rejected by the Committee. While the purpose of this request for reconsideration is not to present a detailed exposition of the arguments in opposition to the position that the Board took in its opinion, our many months of consideration of the issues leads us to make the following comments on some of the more striking features of the Board's opinion.

First, the Alaska public will be surprised to learn that persons who happen to witness or be victimized by crime have a reduced expectation of privacy when approached by a criminal defense lawyer or investigator. Whatever the expectations of privacy other States allow their citizens, the Alaska Supreme Court has held that the right of privacy guaranteed by the Alaska Constitution protects Alaskans' expectations that their conversations will not be tape recorded without their consent. State v. Glass, 583 P.2d 872 (Alaska 1978). It is only when a person is under arrest or lawfully stopped by an identified police officer that the Court has held those expectations to be unreasonable. See, Palmer v. State, 604 P.2d 1106 (Alaska 1979) (arrest); City and Borough of Juneau v. Quinto, 684 P.2d 127 (Alaska 1984) (lawful investigatory stop by a uniformed police officer). The Board's opinion would limit citizens' expectations of privacy far more than has the Alaska Supreme Court. This limitation seems particularly inappropriate in light of the recent amendment to the Alaska Constitution that, among other things, recognizes the right of crime victims "to be treated with dignity, respect and fairness during all phases of the criminal and juvenile justice process..." Article I, Sec 24 of the Alaska Constitution.

Moreover, this limitation on the right to privacy makes distinctions that are difficult to explain. How is it that a person who witnessed an event that may result in civil liability retains privacy rights unavailable to the person who witnessed a

Dan Winfree, President  
April 20, 1995  
Page 3

similar event that results in an investigation of possible criminal charges? <sup>1</sup>

Second, we are unaware of any evidence that the prosecution engages in surreptitious recording of witness interviews. The Committee heard of no instance in which State or federal prosecutors, or their agents, surreptitiously recorded witness interviews as an "investigative tool." To the extent the Board's opinion assumes they do, that assumption is false.<sup>2</sup> Thus, the Board's limitation on the privacy expectations of witnesses and victims attempts to level a playing field that is not tilted. State prosecutors must obtain judicial authorization in the form of a "Glass Warrant" to surreptitiously record conversations; it is only identified police officers who can surreptitiously record without specific judicial authorization, and only then when a person is under arrest, the subject of a lawful investigative stop or when an officer is responding to a request for immediate assistance in a fast-breaking situation such as a domestic violence call. Federal agents are not known to surreptitiously record witness interviews. This lack of evidence that witness interviews are being surreptitiously recorded by the prosecution was one factor that led the Ethics Committee to maintain the current balance between citizens' privacy expectations and the needs of criminal defense attorneys.

Finally, the Board's opinion does little to enhance truth finding. If, as required by the opinion, the interviewer clearly informs the witness of the interviewer's identity and specific association with the accused, then it would seem rare indeed that

---

<sup>1</sup> The Board's opinion does not seem to require that a criminal case actually have been filed to allow surreptitious recording of potential witnesses. This, of course, will result in a situation in which one side in a civil case may be able to surreptitiously record witnesses under the guise of preparation for the defense of a potential criminal case while the other side (often the injured party) will not be able to do the same.

<sup>2</sup> Indeed, under current authority a prosecutor would be engaged in unethical behavior were the prosecutor to surreptitiously record a witness interview as the Board's opinion would now allow defense counsel to do. The "extraordinary circumstances" justifying undisclosed recording by prosecutors or their agents referred to in American Bar Association Formal Opinion No. 337 do not include surreptitious recording of routine witness interviews.

Dan Winfree, President  
April 20, 1995  
Page 4

a witness so advised would agree to give a statement, but decline to allow it to be taped. On the other hand, particularly because the Board's opinion does not seem to require that the advisement of the witness occur on tape, the opportunity exists for abuse. Intentionally or inadvertently, the interviewer's statements of identity and interest may be unclear to the witness, or be so abbreviated that the witness gains little meaningful information about the true nature of the situation. For example, a witness may think the "P.D." means "police department" when the investigator is from the public defender. Also, while obvious to those working within the system, the term "Office of Public Advocacy" or "OPA" will likely not mean much to the average witness or victim.

Moreover, it must be remembered that the current rules of discovery require that recorded witness statements taken by the prosecution must be given to the defense, particularly when they are exculpatory. See, Rule 16, Alaska Rules of Criminal Procedure; Rule 16, Federal Rules of Criminal Procedure; 18 U.S.C. § 3500 (Jencks Act); Brady v. Maryland, 373 U.S. 83 (1963). In contrast to the rules in civil cases, the defense in criminal cases does not have to disclose recorded statements unless they are used at trial. Thus, recorded statements that may bolster the credibility of prosecution witnesses or impeach the credibility of defense witnesses will likely be suppressed by the defense. While this state of affairs may be constitutionally required in some instances, see, e.g. Scott v. State, 519 P 2d 774 (Alaska 1974) (mandatory disclosure of witness statements violates accused's privilege against self-incrimination), it limits the value of surreptitious recording by the defense as an aid to truth finding.



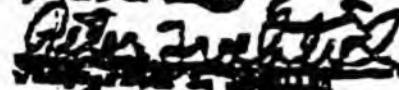
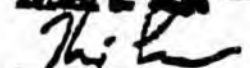



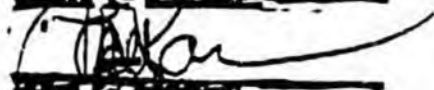
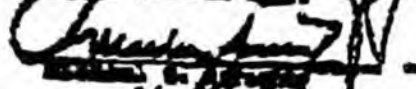

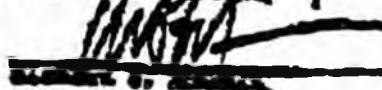
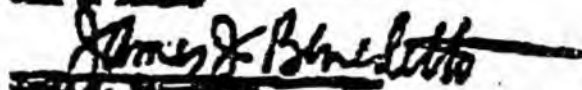
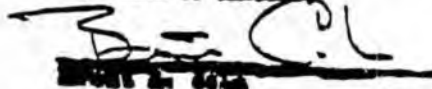
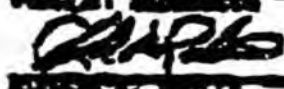
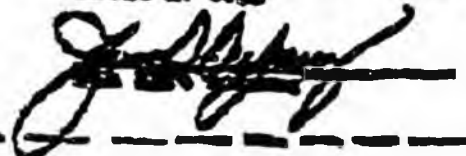


The Ethics Committee recognizes that reasonable persons can differ on the issues encompassed by the Board's opinion. However, those issues are of great importance not only to lawyers defending criminal suspects, but to the public at large, especially to victims and witnesses who are brought into the justice system. The Committee believes that many of those issues need to be examined in greater depth. Accordingly, the Ethics Committee unanimously requests the Board to reconsider its decision adopting the ethics opinion regarding undisclosed tape recording of conversations with potential witnesses in criminal cases.

Very truly yours,

ALASKA BAR ASSOCIATION ETHICS COMMITTEE

  
Robert J. Mahoney, Chair


THE UNIVERSITY OF TEXAS  
AT AUSTIN  
PAGE 1

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TEXAS P-22

\* SEE FOLLOWING PAGE FOR NAMES LISTED

Dan Winfree, President  
April 20, 1995  
Page 5

  
\_\_\_\_\_  
Robert C. Bundy

\_\_\_\_\_  
Nelson G. Page

\_\_\_\_\_  
Judge Peter B. Froelich

\_\_\_\_\_  
Kenneth D. Lougee

\_\_\_\_\_  
Richard B. Brown

\_\_\_\_\_  
Thomas A. Matthews

\_\_\_\_\_  
Judge John R. Lohff

\_\_\_\_\_  
Lance C. Parrish

\_\_\_\_\_  
Michael C. Geraghty

\_\_\_\_\_  
Paul L. Dillon

\_\_\_\_\_  
Richard D. Monkman

\_\_\_\_\_  
James J. Benedetto

\_\_\_\_\_  
Brent R. Cole

\_\_\_\_\_  
Richard A. Poulin

\_\_\_\_\_  
Jan Hart DeYoung

\_\_\_\_\_  
John A. Reeder, Jr.

\_\_\_\_\_  
Kirsten A. Tinglum

\* ROGER HOLL'S NAME INADVERTENTLY OMITTED  
FROM SIGNATURE PAGE. HOWEVER HE WAS CONTACTED  
TO SIGN LETTER BUT HAS BEEN APPARENTLY UNABLE  
TO COME TO THE BAR OFFICE TO SIGN IT.

V6 4-27-95

STATE OF ALASKA

FISCAL NOTE

BILL NO. 1

No. 7

Bill Version: SCSCS HB 314/JWP

(S) Publish Date: 4/22/96

1996 LEGISLATIVE SESSION

Revision Date: 4/20/96 Dept. Affected: Public Safety  
 Title: Domestic Violence Prevention and Victim Protection Act of 1996 BRU: CDVSA  
 Component: CDVSA  
 Sponsor: Rep. Parnell  
 Requestor: S. Judiciary COMPONENT SERIAL NO.

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.0	65.0	35.0	35.0	35.0	35.0
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ( ) Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ \_\_\_\_\_

POSITIONS:

	1 (10 months)	1	0	0	0	0
FULL-TIME						
PART-TIME	0	0	.5	.5	.5	.5
TEMPORARY	0	0	0	0	0	0

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

Prepared By: Jayne E. Anderson Phone: 907-465-4356  
 Division: Council on Domestic Violence and Sexual Assault Date: 4-20-96  
 Approved by Commissioner: Dee Smith Date: 4/22/96  
 Agency: Ronald L. Otte, Department of Public Safety

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## FISCAL NOTE

State of Alaska  
1996 Legislative Session

### ANALYSIS CONTINUED:

The cost to the Council for implementing the Domestic Violence Prevention and Victim Protection Act of 1996 will total \$55.0 for the first fiscal year.

A project coordinator to oversee the implementation of batterers' standards as developed by the Council, beginning in September, 1996. Range 18 position with fringe for 10 months = \$50.0

10 on-site trips to evaluate compliance of batterers' programs with standards.  
\$500/trip x 10 = \$5.0

This fiscal impact is based upon the following assumptions:

Implementation of the Council's Batterers Intervention Program Standards. The Council has been concerned over the past several years with the growing inconsistency between programs available for domestic violence perpetrators. Within the domestic violence movement it is understood that the only effective domestic violence offender programs must be based on a commitment to ensuring victim safety. They must hold offenders accountable for their violence, regardless of other life issues. Because this philosophy is not incorporated by many programs in Alaska, the Council worked with victim and offender service providers to develop standards for batterer's intervention programs. These standards were approved in March, 1995. The standards, as they currently exist, meet the guidelines for standards proposed within the model code. At this time, only the two programs funded in part by the Council have any requirement to abide by these standards.

The current bill requires the Court and Corrections to use batterers' programs that meet the standards established by the Council. A key element to the effectiveness of batterers' programs will be the implementation of the standards for state-wide consistency. The Council will hire a range 18 project coordinator to oversee the standardization of batterers' programs. Based on information from victim services, the Council estimates that 20-25 programs currently exist. A process will be established to review compliance with the standards that will consist of policy and procedure review and on-site evaluation. The Council will produce a list of appropriate programs for use by Corrections and the court system for ordering offenders into programs. The Council estimates that the first two years of this component will entail greater oversight in implementing the standards and establishing the core group of standardized programs. Beginning in the third year the project will enter a maintenance level of oversight, thereby reducing the need for a full-time coordinator.

272

# FISCAL NOTE

No. 6

Bill Version: SCSIS AB 314 LWD

I (S) Publish Date: 4/22/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: 04/22/96

Dept. Affected: Alaska Court System

Title: Domestic violence

BRU: Trial Courts

Component: \_\_\_\_\_

Sponsor: Reps. Parnell, Robinson, Bunde, Elton...

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 788

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	66.7	66.7	66.7	66.7	66.7	66.7
TRAVEL	25.7	25.7	25.7	25.7	25.7	25.7
CONTRACTUAL	0.9					
SUPPLIES	7.2					
EQUIPMENT	8.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>108.5</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	108.5	92.4	92.4	92.4	92.4	92.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>108.5</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>	<b>92.4</b>

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	6.0	6.0	6.0	6.0	6.0	6.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System

Phone: 264-8228  
Date: 04/22/96

Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 04/22/96

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Alaska Court System  
Fiscal Analysis  
SCS CSHB 314 (JUD)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Sections 8, 11 &amp; 29 (In-Person Hearing)</u>			
Superior Court Judge Pro Tem, 50% vested, PPT	\$5,737	\$3,537	\$9,274
In-Court Clerk, range 12A, PPT	2,725	1,236	3,961
(25% of current criminal filings will be affected by the bill, 1/2 of these will require a 15 minute hearing)			
<u>Section 33 (Extended Orders)</u>			
Standing Master, range 24A, PPT	17,583	6,137	23,720
In-Court Clerk, range 12A, PPT	7,813	3,544	11,357
Court Clerk II, range 10A, PPT	554	265	819
(25% of current criminal filings will result in extended orders, 1/2 will require an additional 30 minutes of hearing)			
<u>Section 33 (Peace Officer Request)</u>			
Court Clerk II, range 10A, PPT	308	147	455
(Expecting 100 additional case filings, which will require 15 minutes of clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders)</u>			
Standing Master, range 24A, PPT	2,816	983	3,799
In-Court Clerk, range 12A, PPT	1,251	568	1,819
Court Clerk II, range 10A, PPT	1,108	530	1,638
(Expecting 8% increase in case filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders (Respondent's Petition))</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
Court Clerk II, range 10A, PPT	554	265	819
(Expecting 50% increase in orders on increased filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Forms and Clerical Assistance)</u>			
Court Clerk II, range 10A, PPT	2,303	1,100	3,403
(Expecting additional clerical assistance on 25% of new filings, which will require 15 minutes of clerical time)			
<u>Section 49 (Heightened Scrutiny)</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
(10% of current dissolutions will require a 30 minute hearing)			
Estimated Total Personal Services			66,682

Travel

Section 33 (Forms and Clerical Assistance)

This legislation will require a complete revision of all domestic violence forms and instructions. The court Forms Committee will have to meet twice to accomplish the revision of the 12 existing forms. These forms are used in all superior and district courts.

5,400

This legislation requires continuing education of judicial officers and staff. The court will lengthen existing annual training conferences for judges, magistrates and clerks to accomplish this requirement. The court will use experts to conduct annual training conferences.

20,300

Estimated Total Travel

25,700

Alaska Court System  
Fiscal Analysis  
SCS CSHB 314 (JUD)

Contractual (one-time)

Postage for mailing new forms and instructions \$900

Supplies (one-time cost)

Paper and duplication supplies for new forms and instructions 7,200

Equipment (one-time cost)

Section 33 (Peace Officer Request)

20 portable tape recorders for hearings 8,000

Estimated Total Cost

\$108,482

FISCAL NOTE

No. 5

Bill Version: SCS CS HB 314

(S) Publish Date: 4/22/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act relating to domestic violence..."

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

Sponsor: Representatives Parnell, Robinson, et. al.  
Requestor: Senate Judiciary

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	191.6	191.6	191.6	191.6	191.6	191.6
TRAVEL						
CONTRACTUAL	11.4	11.4	11.4	11.4	11.4	11.4
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	10.8	10.8	10.8	10.8	10.8	10.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	216.8	216.8	216.8	216.8	216.8	216.8

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	216.8	216.8	216.8	216.8	216.8	216.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	216.8	216.8	216.8	216.8	216.8	216.8

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Adoption of the revised version of HB 314 will have a significant impact on the Office of Public Advocacy's guardian ad litem responsibilities. The Alaska Court System reported that 8,692 domestic relation cases were heard in FY 95 and that 38% or 3,303 were domestic violence filings.

The bill is designed to provide greater assistance to victims of domestic violence, remove obstacles to the provision of greater protection to such victims, and dramatically lengthen the time that domestic violence orders remain in effect. It is likely that the bill's supporters are correct in their assessment that more victims will avail themselves of this legal opportunity for protection and that domestic violence filings will increase. Further, because of the length of (continued)

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
Agency: Administration

Date: 4/19/96

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FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314

ANALYSIS: (continued)

time the orders remain in effect, there is little question that some petitioners will utilize these proceedings as an initial step in the dissolution of a marital or other relationship. Judges in such proceedings will make decisions regarding both custody and visitation. These decisions will have a much longer term impact on children than is possible under current law. It is inevitable that judicial officers will look to OPA guardians ad litem as independent investigators whose purpose will be to develop facts to inform judicial rulings that impact children. This is especially true where neither party is represented by counsel.

While it is not possible to project with any precision, the exact caseload increase that OPA will experience, it is absolutely clear that at least two additional guardians ad litem in Anchorage and one additional guardian ad litem in Fairbanks will be essential in order to afford even minimal advocacy to children in households where domestic violence is proven. Even if only 20% of the FY 95 caseload requires the appointment of a guardian ad litem, some 661 cases will be added to OPA's current caseload.

This estimate is conservative for four reasons:

1. The estimate assumes no significant increase in areas outside major population centers in the first year after enactment. Therefore, no contractual funds are requested to pay OPA contract guardians ad litem in those communities.
2. Domestic violence orders issued under the new law will remain in effect for one year. Judicial officers are far more likely to appoint guardians ad litem in order to obtain independent, objective information regarding the children's interest in custody and visitation during this much longer period.
3. The filing of domestic violence petitions will significantly increase. Issues regarding the departure of the offender, custody, visitation and child support can be addressed far more expeditiously than under current domestic relations law. More victims will avail themselves of this opportunity for a much quicker legal remedy.
4. The fiscal note assumes that the legislature will insert an indigency requirement for the appointment of a guardian ad litem in the new statute. Current law requires the appointment of an OPA guardian ad litem only "if the parties are indigent or temporarily without funds." AS 25.24.310(c).

Such a clause would be added to Section 64 of the new bill if the legislature determines that only indigent parties should receive a guardian ad litem paid by the public. Such a provision should be considered because a significant number of parties involved in domestic violence petitions do have the means to pay a private guardian ad litem appointed by the court.

ANALYSIS: (continued)

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314

Personal Services

Anchorage

Associate Attorney II  
Salary & Benefits \$ 61.2

Associate Attorney II  
Salary & Benefits 61.2

Fairbanks

Associate Attorney II  
Salary & Benefits 69.2

Subtotal Personal Services 191.6

Contractual

Office space for three new positions. 11.4

Supplies

Stationary, library and office supplies for three new positions. 3.0

Equipment

Office furniture and equipment for three new professional positions. 10.8

Total \$216.8

Position Title Associate Attorney II		No. of Positions 2	Range / Step 19/A	Barg. Unit PX	
Time Status PFT	Staff Months 12.0	Location EBA-Anchorage		Election District 8	
TYPE OF EXPENDITURE		AMOUNT		Justification The passage of this legislation will result in an impact that cannot be absorbed by the current staff. The addition of two new associate attorney positions is necessary.	
Salary	88.6	88.6			
Benefits	33.8	33.8			
Premium Pay					
Other					
Total Personal Services	122.4	122.4			
Travel					
Contractual		6.8			
Commodities		2.0			
Equipment		7.2			
Other					
Total Cost		138.4			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	138.4			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

# Request For New Position

AGENCY ADMINISTRATION  
 BRU OFFICE OF PUBLIC ADVOCACY  
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 97

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314



Revised Date: \_\_\_\_\_

Position Title Associate Attorney II			No. of Positions 1	Range / Step 19/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0		Location JBA-Fairbanks	Election District	
TYPE OF EXPENDITURE		AMOUNT	Justification The passage of this legislation will result in an impact that cannot be absorbed by current staffing levels. It will be necessary to add a new associate attorney position in the Fairbanks office to handle the additional cases.		
Salary	50.6	50.6			
Benefits	18.6	18.6			
Premium Pay					
Other					
Total Personal Services	69.2	69.2			
Travel					
Contractual		4.6			
Commodities		1.0			
Equipment		3.6			
Other					
Total Cost		78.4			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	78.4			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

# Request For New Position

AGENCY ADMINISTRATION  
 BRU OFFICE OF PUBLIC ADVOCACY  
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 97

FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSIB 314



Revised Date: \_\_\_\_\_

FISCAL NOTE

No. 4

Bill Version: CSHB 314(JUD)

(H) Publish Date: 2/2/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act relating to domestic violence and to crime victims and witnesses . . . ."  
Sponsor: Rep. Parnell  
Requestor: (H) JUD

Dept. Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

Prepared by: John Salemi, Director  
Division: Public Defender Agency

Phone: 264-4400  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Bover  
Agency: Department of Administration

Date: 2/2/96

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FISCAL NOTE

No. 3

Bill Version: CSHB 314(JUD)

(H) Publish Date: 2/2/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act relating to domestic violence and to crime victims and witnesses..."  
Sponsor: Rep. Pamell  
Requestor: (H) JUD

Dept. Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy  
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0	0	0	0	0	0
CHANGE IN REVENUES ( )	0	0	0	0	0	0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 1/31/96

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# FISCAL NOTE

## STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to the crime of violating a BRU: Trial Courts  
domestic violence restraining order. Component: \_\_\_\_\_  
 Sponsor: Reps. Parnell, Robinson, Bunde, Elton, Tooney  
 Requestor: House Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: None

### Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System

Phone: 264-8228  
 Date: 01/24/96

Date: 01/24/96

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# FISCAL NOTE

NO. 1  
 Bill Version: CSHB 314(JUD)  
 (H) Publish Date: 2/2/96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: 1/24/96 Dept. Affected: Department of Law  
 Title: "...relating to domestic violence...crime victims..." BRU: Criminal Division  
 witnesses...amending...Rule of Evidence 613." Component: Criminal Division  
 Sponsor: Representative Parnell  
 Requester: Representative Parnell COMPONENT SERIAL NO. 2085

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends AS 11.56.740(a) so that the criminal prohibitions contained in this statute coincide with the civil prohibitions contained in a civil domestic violence restraining order issued under AS 23.35.010 or AS 23.35.020. Thus the bill clarifies the interplay between the civil and criminal laws dealing with domestic violence restraining orders, making these laws easier to enforce.

The bill also amends AS 12.61.120 to require that if a defendant or a person acting on behalf of a defendant wishes to make a recording of statements of the victim of an offense, or of a witness, the consent of the victim or witness must be obtained before a recording begins. The bill will not have a fiscal impact for the Department of Law.

*Richard I. Peques*

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 1/24/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/24/96  
 Agency: Department of Law

**COMMITTEE COPY**

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**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 2/12/96

FURTHER:

*2*  
*JM*

~~Date of 5-Day Notice:~~ \_\_\_\_\_  
 (in accordance with Uniform Rule 29)

DATE TURNED INTO OFFICE: 4-19-96

The Judiciary Committee considered CS FOR HOUSE BILL NO. 314(JUD) am

Relating to domestic violence and to crime victims and witnesses; and amending Rule 613, Alaska Rules of Evidence.

*En's*

and recommends:

- be replaced with S CS CS 14 B 314 (JUD)
- adopt previous CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>fly Ellis Amend</i>			
<i>Lyle Green</i>	<input type="checkbox"/>				
<i>Chair: [Signature]</i>	<input checked="" type="checkbox"/>	<i>Chair:</i>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>Admin./Public Advocacy</i>	<i>4/19/96</i>		<i>216.8</i>
<i>Courts</i>	<i>4/29/96</i>		<i>108.5</i>

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill