

HB

366

HFIN

FILE

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 25, 2000

FURTHER REFERRALS:

Date of Committee Action: 3/29/00

The FINANCE Committee considered:

HB 366

HOUSE BILL NO. 366

CRIME VICTIMS RIGHTS & DOMESTIC VIOLENCE

"An Act relating to the rights of crime victims, the crime of violating a protective order or injunction, mitigating factors in sentencing for an offense, and the return of certain seized property to victims; expanding the scope of the prohibition of compromise based on civil remedy of misdemeanor crimes involving domestic violence; amending Rules 10, 11, 13, 16, and 17, Alaska District Court Rules of Civil Procedure and Rule 9, Alaska Rules of Administration."

recommends it be replaced with the following committee substitute CSHR 366 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____ 2 fiscal note(s) Admin, Doc 2-11-0

zero fiscal note(s) _____ 2 zero fiscal note(s) DPS, LAW 2-11-0

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<u>Jan Therriault</u> Therriault			X	
<u>Jan Bunde</u> Bunde	✓		/	
<u>Alan Rusterman</u> Rusterman			X	
<u>Col N. Davie</u> Davie	X			
<u>Ben Grussendorf</u> Grussendorf		X		
<u>Carol E. Moses</u> Moses			X	
<u>Larry Davis</u> DAVIS			X	
<u>W. K. Williams</u> Williams			X	
<u>Lail Phillips</u> Phillips	✓			
<u>Foster</u> Foster	X			

CHAIR'S SIGNATURE Jan Therriault

FISCAL NOTE

No: 4

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 366
(H) Publish Date: 2/11/00

Revision Date: _____
Title: "An Act relating to the rights of crime victims..."

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

Sponsor: Rules Committee
Requestor: Governor

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**

CAPITAL EXPENDITURES	**	**	**	**	**	**
----------------------	----	----	----	----	----	----

CHANGE IN REVENUES ()	**	**	**	**	**	**
------------------------	----	----	----	----	----	----

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 00) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poe, Jr. *[Signature]*
Agency: Department of Administration

Date: 2/10/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. _____

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill contains a number of provisions that would affect the Public Defender Agency's operations. The bill makes violating protective orders entered in Child in Need of Aid (CINA) cases a misdemeanor. It reduces the authority of the courts to allow compromises in misdemeanor cases. Finally, it creates a mitigating factor that can be used in felony sentencings. An offense can be mitigated if the defendant reduces the impact of the offense on the victim by pleading guilty or no contest within 30 days of the arraignment.

We expect to have some additional misdemeanor cases because of the new misdemeanor offense of violating a CINA protective order. However, we cannot make an accurate estimate of the number of additional cases to which we would be appointed.

Allowing fewer civil compromises and creating the new mitigator will result in more work in our existing caseload. However, we do not expect a significant fiscal impact.

Based on this analysis, the Public Defender Agency is submitting an indeterminate fiscal note on this bill.

FISCAL NOTE

Bill Version: HB 366

(H) Publish Date: 2/11/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to the rights of crime victims, BRU Administration and Operations
the crime of violating a protective order of injunction, ... Component All
 Sponsor Rules Committee
 Requester Governor Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections is submitting an indeterminate fiscal note for this legislation. This legislation will provide criminal consequences for a person who violates a protective injunction in child in need of aid proceedings.

Information provided by the Dept. of Law suggests approximately 12 offenders per year will be convicted. It is difficult to determine the length of sentence the Court will assign to these offenders. It presumably will be less than the mandatory minimum sentence of 20 days for an assault 4 in conjunction with the violation of a domestic violence restraining order.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 2/9/00 9:30 AM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2-9-00
 Agency Dept. of Corrections

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FISCAL NOTE

Bill Version: HB 366

(H) Publish Date: 2/11/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title "An Act relating to the rights of crime victims, the crime of violating a protective order or injunction ..."	BRU	Criminal Division
Sponsor Rules Committee	Component	1st-4th Judicial Districts; Criminal Appeals/Special Litigation
Requester Governor	Component No.	2198-99;2201/03/61/79

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes several amendments related to the protection of crime victims. It makes the violation of a protective injunction a class A misdemeanor. Like protective orders in a domestic violence case, protective injunctions may be ordered by the court to prevent or limit a person's contact with a child if it is established that the person has sexually or physically abused the child, or engages in conduct that constitutes a clear and present danger to the welfare of the child. While domestic violence protective orders are a class A misdemeanor, under current law, the only remedy for violations of a protective injunction is a finding of contempt by the court.

The bill also would clarify the means by which a victim can petition for the return of their property seized by law enforcement from a pawnbroker or second hand dealer; and broadens prohibitions against "compromising

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Attorney General's Office
 Approved by Commissioner: Bruce M. Bolte *Bruce M. Bolte*, Attorney General
 Agency: Department of Law

Phone: 465-5370
 Date/Time: 2/10/00, 11:27 AM
 Date: 2/10/00

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ANALYSIS CONTINUATION

misdemeanors* (paying a victim's expenses in return for criminal charges being dropped) to include domestic violence as defined in current law. The bill also adds a new mitigating factor for presumptive sentences when a defendant pleads guilty or no contest within 30 days of arraignment on a charge.

Any potential fiscal impact of the bill on the Department of Law would come from the creation of the new class A misdemeanor for violating a protective injunction. The department expects to see only a handful of new cases arising from this provision each year, and anticipates any increased workload can be handled with existing resources.

FISCAL NOTE

Bill Version: HB 366

(H) Publish Date: 2/11/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date _____ Dept. Affected Public Safety
 Title An Act relating to the rights of crime victims ... BRU CDVSA
 Component CDVSA
 Sponsor Rules Committee
 Requester Governor Component No. 521

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to adversely impact the budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time 12/21/99
 Approved by Commissioner Ronald L. Otta Date 12/21/99
 Agency Department of Public Safety

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AMENDMENT

2
Adopted

OFFERED IN THE HOUSE

TO: HB 366

Page 1, line 2: after "injunction," insert the following:

"enforcement of protective orders,"

Page 5, following line 2: Insert the following:

*Sec. 7. AS 18.66.140(a) is amended to read:

(a) A certified copy of an unexpired protective order issued in another jurisdiction **has**
the same effect and must be enforced in the same manner as a protective order issued by a
court of this state and may be filed with the clerk of court in any judicial district in this state.

*Sec. 8. AS 18.66.140(b) is repealed.

Renumber following sections accordingly.

Adopted

AMENDMENT

#1

OFFERED IN THE HOUSE
TO: HB 366

BY REPRESENTATIVE DAVIES

1 Page 2, following line 10:

2 Insert a new bill section to read:

3 **** Sec. 3.** AS 11.56.740(c) is amended to read:

4 (c) In this section, "protective order" means an order issued or filed under
5 AS 18.66.100 - 18.66.180 or issued by another state under laws substantially
6 similar to AS 18.66.100. *-910"*

7 Page 5, line 5:

8 Delete "sec. 3"

9 Insert "sec. 4"

10 Page 5, line 9:

11 Delete "Section 3"

12 Insert "Section 4"

13 Page 5, line 14:

14 Delete "sec. 3"

15 Insert "sec. 4"

16 Page 5, line 16:

17 Delete "sec. 3"

18 Insert "sec. 4"

19 Page 5, line 17:

20 Delete "sec. 3"

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 30, 2000

SUBJECT: CSHB 366(FIN); Editorial matters

TO: Representative Gene Therriault, Co-Chair
House Finance Committee
Attn: Shar

FROM: Pamela Finley 
Revisor of Statutes

The referenced CS is based on a Governor's bill that did not have a draft CS prepared by our office and therefore was not edited by our office. The following changes should be made if the bill is to conform to the general style of the Alaska Statutes and the drafting manual:

1. In sec. 1, delete "of the Alaska Constitution" and insert ", Constitution of the State of Alaska".
2. In sec. 2, "subject to" should be moved to the introductory language, and deleted after "(1)" and "(2)".
3. In sec. 4, in the last line of AS 12.36.070(c), the comma after "property" should be deleted.
4. In sec. 4, in the last sentence of AS 12.36.070(f), "section" should be deleted and "subsection" inserted. (The term being defined only appears in subsection (f), and if the term were to apply to the entire section, the definition should be moved to subsection (j).)
5. In sec. 4, in the second sentence of AS 12.36.070(g), a comma should be inserted after "pleadings".
6. In sec. 7, "effect" should replace "impact" and "after being arraigned" should replace "of being arraigned".
7. In sec. 10, "secondhand" should replace "second-hand".

We can give you another final with these changes if you want. If not, you may want to pass this memo on to the next committee (either Rules or the committee of first referral in the other body.)

PF:glc
00-150.glc

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Juneau, Alaska 99801-1182
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MEMORANDUM

March 30, 2000

SUBJECT: Single Subject CSHB 366(FIN) (Work Order No. 21GH2024\D)

TO: Representative Gene Therriault, Chair
House Finance Committee
Attn: Mike Tibbles

FROM: Gerald P. Luckhaupt *Jeg*
Legislative Counsel

Enclosed is the Final CS(FIN) you requested. I have one comment. It is my opinion that this bill no longer is confined to a single subject and violates Art. II, § 13, Constitution of the State of Alaska.^{1/}

The courts have given the single-subject requirement a liberal interpretation, adopting, in *Gellert v. State*, 522 P.2d 1120 (Alaska 1974), the position stated by the Minnesota Supreme Court in 1891:

All that is necessary is that [the] act should embrace some one general subject; and by this is meant, merely, that all matters treated of should fall under some one general idea, be so connected with or related to each other, either logically or in popular understanding, as to be parts of, or germane to, one general subject.

Id., at 1123, quoting *Johnson v. Harrison*, 50 N.W. 923, 924 (Minn. 1891). Five years after *Gellert*, the court stated that the test

^{1/}That section provides:

SECTION 13. Form of Bills. Every bill shall be confined to one subject unless it is an appropriation bill or one codifying, revising, or rearranging existing laws. Bills for appropriations shall be confined to appropriations. The subject of each bill shall be expressed in the title. The enacting clause shall be: "Be it enacted by the Legislature of the State of Alaska."

... requires no more than that the various provisions of [a] single legislative enactment fairly relate to the same subject, or have a natural connection therewith.

Short v. State, 600 P.2d 20, 24 (Alaska 1979).

In construing the single-subject rule, the court will "disregard mere verbal inaccuracies" and "resolve doubts in favor of validity"; "in order to warrant the setting aside of enactments for failure to comply, the violation must be substantial and plain." *Suber v. Alaska State Bond Committee*, 414 P.2d 546, 557 (Alaska 1966). The rule should be "construed with considerable breadth. Otherwise statutes might be restricted unduly in scope and permissible subject matter, thereby multiplying and complicating the number of necessary enactment(s) and their interrelationships." *Gellert*, at 1122.

Using this broad construction of the rule, the court has approved such single-subjects as "water resources" in *Gellert*; "state taxation" in *North Slope Borough v. Sohio Petroleum Corp.*, 585 P.2d 534 (Alaska 1978); "land" in *State v. First Nat'l. Bank of Anchorage*, 660 P.2d 406 (Alaska 1982); and "transportation" in *Yute Air Alaska, Inc. v. McAlpine*, 698 P.2d 1173 (Alaska 1985). The Alaska Court of Appeals has approved the single-subjects "liquor regulation" in *Van Brunt v. State*, 646 P.2d 872 (Ak. App. 1982); and "criminal law" in *Galbraith v. State*, 693 P.2d 880 (Ak. App. 1985). In fact, the Alaska Supreme Court and the Alaska Court of Appeals have never found that an Alaska statute violated the single-subject rule.^{2/} This is consistent with the record of other states that have substantially the

^{2/}In recent years, however, the Alaska Supreme Court has begun to reevaluate its broad interpretation of the single-subject rule. In *First Nat'l. Bank of Anchorage*, the court expressed reservations about prior cases, but was unwilling in that case to overturn past precedents. In *Yute Air Alaska, Inc.*, the court again expressed concern with the broad interpretation of the rule, but gave three reasons why it was not ready to reject its past approach: (1) "it is not at all clear that there are workable stricter standards"; (2) the legislation in that case was the result of a voter initiative and the sponsors of the initiative had relied on the court's precedents in preparing it; and (3) because the sponsors were not experts at drafting, the court was reluctant to invalidate a worthy or popular cause merely because of doubtful legality.

In his dissent in *Yute Air Alaska, Inc.*, former Justice Moore blasted the majority's "test" as meaningless. "This court has mistakenly continued to give the rule such an extremely liberal interpretation that the rule has become a farce," he said. *Id.*, at 1182. Moore suggested a new test: "An act or initiative should embrace one subject. By this we mean that all matters treated should be logically connected." This, he said, means that various provisions of legislation will pass muster if they are inextricably intertwined, if they have an effect on one another, or if they are reasonably interdependent. Moore urged that "[e]nactments should be presented clearly and candidly," and that the court should "use a plainer standard and be more willing to look closely at the logic of an asserted connection and the reasonable
(continued...)

Representative Gene Therriault

March 30, 2000

Page 3

same rule. Usually, only clear violations of the single-subject requirement have been found unconstitutional. See e.g., *State ex rel Hinkle v. Franklin County Board of Elections*, 580 N.E.2d 767 (Ohio 1991), finding a violation of the single subject requirement where a bill on a local option election for allowing the sale of alcoholic beverages was added to a bill concerning elected judicial offices. Lately though state supreme courts have appeared more willing to strike down bills that combine subjects and there appears to me to have been an increased recognition of the importance of single subject provisions. See, *St. Louis Health Care Network v. State*, 968 S.W.2d 145 (Mo. 1998) (single subject of "entities" unconstitutional - the listing of all of the contents of the bill in the title did not save the bill from having to pertain to one single subject); *State ex rel. Ohio Academy of Trial Lawyers v. Sheward*, 86 Ohio St.3d 451, 715 N.E.2d 1062 (1999).

HB 366 pertains to criminal law. While one or two of the provisions in the bill relate to the criminal aspects of domestic violence, a number of provisions do not have anything to do with domestic violence. Clearly, its single subject must be criminal law.

Amendment No. 2 adds to the bill provisions amending AS 18.66 that relate to domestic violence protective orders. While some of the effects of this amendment may be in the criminal arena, domestic violence protective orders are civil process and arise in a civil context. The conduct giving rise to these orders may not be criminal at all. Clearly, the subject of this amendment is domestic violence, civil process, court orders, or something in a similar vein. It is not criminal law. Because it is not criminal law, its inclusion in HB 366 is improper unless another common subject can be found. I have been unable to discern a single subject that includes Amendment No. 2 unless one considers "laws," "a lot of stuff," or "criminal law and something else that sometimes involves criminal law" to be a single subject. Of course, I do not consider these a single subject and can only conclude that this bill violates Art. II, § 13.

My opinion here is consistent with my opinion in 1996 when the legislature adopted the omnibus domestic violence bill that enacted AS 18.66. My opinion at that time was that the single subject of that bill was domestic violence thereby allowing the bill to encompass criminal law and procedure and civil law and procedure and other topics. Each provision, though, related to domestic violence. I concluded that the inclusion of provisions relating to criminal law but not domestic violence violated Art. II, § 13.

I am not as unconcerned as some people are about single subject. My concern stems from what occurs if a violation of single subject provision of the Constitution is found. If a bill is not confined to a single subject, the bill is defective, and the entire bill, not just the offending provisions, could be struck down. Since we are dealing with criminal law, a subject that has been reviewed by the Alaska courts and been found to be a single subject,

^{2/}(...continued)

interdependence of separate provisions. . . . to discourage logrolling and . . . duplicity." *Id.*, at 1186.

Representative Gene Therriault
March 30, 2000
Page 4

inclusion of things that are not necessarily criminal law could result in the loss of HB 366 if it were to be successfully challenged.

GPL:pl
00-116.plm

AMENDMENT #1

OFFERED IN THE HOUSE

BY REPRESENTATIVE DAVIES

TO: HB 366

1 Page 2, following line 10:

2 Insert a new bill section to read:

3 **** Sec. 3.** AS 11.56.740(c) is amended to read:

4 (c) In this section, "protective order" means an order issued or filed under
5 AS 18.66.100 - 18.66.180 or issued by another state under laws substantially
6 similar to AS 18.66.100.^a - 910"

7 Page 5, line 5:

8 Delete "sec. 3"

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20 Delete "sec. 3"

FISCAL NOTE

Bill Version: HB 366
 (H) Publish Date: 2/11/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date _____ Dept. Affected Public Safety
 Title An Act relating to the rights of crime victims ... BRU CDVSA
 Component CDVSA
 Sponsor Rules Committee
 Requester Governor Component No. 521

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
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						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill is not expected to adversely impact the budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time 12/21/99
 Approved by Commissioner Ronald L. Otte Date 12/21/99
 Agency Department of Public Safety

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FISCAL NOTE

Bill Version: HB 366

(H) Publish Date: 2/11/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title "An Act relating to the rights of crime victims, the BRU Criminal Division
crime of violating a protective order or injunction ..." Component 1st-4th Judicial Districts; Criminal
 Sponsor Rules Committee Appeals/Special Litigation
 Requester Governor Component No. 2198-99;2201/03/61/79

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

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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 ()						
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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 (Specify Type)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill makes several amendments related to the protection of crime victims. It makes the violation of a protective injunction a class A misdemeanor. Like protective orders in a domestic violence case, protective injunctions may be ordered by the court to prevent or limit a person's contact with a child if it is established that the person has sexually or physically abused the child, or engages in conduct that constitutes a clear and present danger to the welfare of the child. While domestic violence protective orders are a class A misdemeanor, under current law, the only remedy for violations of a protective injunction is a finding of contempt by the court.

The bill also would clarify the means by which a victim can petition for the return of their property seized by law enforcement from a pawnbroker or second hand dealer; and broadens prohibitions against "compromising

Prepared by: Joan M. Kasson
 Division: Attorney General's Office
 Approved by Commissioner: Bruce M. Bolcho, Attorney General
 Agency: Department of Law

Phone 465-5370
 Date/Time 2/10/00, 11:27 AM
 Date 2/10/00

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO.

ANALYSIS CONTINUATION

misdemeanors" (paying a victim's expenses in return for criminal charges being dropped) to include domestic violence as defined in current law. The bill also adds a new mitigating factor for presumptive sentences when a defendant pleads guilty or no contest within 30 days of arraignment on a charge.

Any potential fiscal impact of the bill on the Department of Law would come from the creation of the new class A misdemeanor for violating a protective injunction. The department expects to see only a handful of new cases arising from this provision each year, and anticipates any increased workload can be handled with existing resources.

FISCAL NOTE

Bill Number: HB 366

(H) Publish Date: 2/11/00

STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Department of Corrections
 Title An Act relating to the rights of crime victims, BRU Administration and Operations
the crime of violating a protective order of injunction, ... Component All
 Sponsor Rules Committee
 Requester Governor Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections is submitting an indeterminate fiscal note for this legislation. This legislation will provide criminal consequences for a person who violates a protective injunction in child in need of aid proceedings.

Information provided by the Dept. of Law suggests approximately 12 offenders per year will be convicted. It is difficult to determine the length of sentence the Court will assign to these offenders. It presumably will be less than the mandatory minimum sentence of 20 days for an assault 4 in conjunction with the violation of a domestic violence restraining order.

Prepared by: Candy Brower, Legislative Liaison Phone 465-3307
 Division Commissioner's Office Date/Time 2/9/00 9:30 AM
 Approved by Commissioner Margaret M. Pugh *Margaret M. Pugh* Date 2-9-00
 Agency Dept. of Corrections

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FISCAL NOTE

Bill Version: HB 366
(H) Publish Date: 2/11/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to the rights of crime victims..."

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

Sponsor: Rules Committee
Requestor: Governor

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ()	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 00) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached sheet.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Robert Poe, Jr. *Robert Poe, Jr.*
Agency: Department of Administration

Date: 2/10/99

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FISCAL NOTE

STATE OF ALASKA

BILL NO. _____

2000 LEGISLATIVE SESSION

ANALYSIS: (continued)

This bill contains a number of provisions that would affect the Public Defender Agency's operations. The bill makes violating protective orders entered in Child in Need of Aid (CINA) cases a misdemeanor. It reduces the authority of the courts to allow compromises in misdemeanor cases. Finally, it creates a mitigating factor that can be used in felony sentencings. An offense can be mitigated if the defendant reduces the impact of the offense on the victim by pleading guilty or no contest within 30 days of the arraignment.

We expect to have some additional misdemeanor cases because of the new misdemeanor offense of violating a CINA protective order. However, we cannot make an accurate estimate of the number of additional cases to which we would be appointed.

Allowing fewer civil compromises and creating the new mitigator will result in more work in our existing caseload. However, we do not expect a significant fiscal impact.

Based on this analysis, the Public Defender Agency is submitting an indeterminate fiscal note on this bill.

HB 366

TONY KNOWLES
GOVERNOR
Governor of the State of Alaska

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

HB 366

Dear Speaker Porter:

The Victims' Rights Amendment (art. I, sec. 24, of the Alaska Constitution) was approved by 87 percent of Alaskan voters, and has been in effect since December 30, 1994. Since then, our knowledge of both the difficulties that a crime victim suffers and efforts to minimize the effects of victimization continues to grow. This bill I am transmitting today results from this increased knowledge. It contains four proposals, which are described in further detail below.

- Allowing a mitigated presumptive sentence for speedy no contest or guilty pleas;
- Simplifying procedures for victims to recover stolen property;
- Establishing a crime for violating protective injunctions in child in need of aid cases;
- Extending current disallowance of civil compromise in some domestic violence cases to all domestic violence cases.

Mitigated Presumptive Sentences. The bill allows the court to mitigate a presumptive sentence when the defendant pleads no contest or guilty within 30 days after being charged. The reasoning is that early admission on the part of the defendant relieves the victim of some of the suffering involved in long, drawn out court procedures. This concept has already been recognized by the courts as a non-statutory mitigating factor. State v. McKinney, 946 P.2d 456 (Alaska 1997).

Recovering Stolen Property. The bill establishes a simplified procedure for theft victims to recover property that is in the possession of a law enforcement agency after having been recovered from a pawnshop or secondhand dealer. The current process is based on federal procedure and requires the victim to initiate formal legal proceedings to recover

The Honorable Brian Porter
February 10, 2000
Page 2

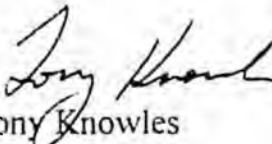
property. Under this less formal procedure, the victim could file a petition in state court supported by affidavit of ownership. The pawnshop or secondhand dealer can file a response supported by affidavit. Ownership may then be decided based on the information in the affidavits.

Protective Injunction Violations. Alaska law authorizes the court to issue a protective injunction in child in need of aid (CINA) proceedings that orders perpetrators to stay away from a child. These are similar to protective orders in domestic violence cases. Unlike domestic violence protective orders, however, it is not a separate crime to violate a protective injunction for a child in a CINA proceeding. The bill corrects this unjust inconsistency by making it a class A misdemeanor for a perpetrator to violate the CINA injunction.

Civil Compromise in Domestic Violence Cases. Alaska allows a person charged with a misdemeanor that harms a person or property to enter into a civil compromise by agreeing to pay the victim for personal costs, such as medical expenses or property damage. If the victim appears in court and acknowledges in writing that the defendant has paid the damages, the court may dismiss the charges, even if the prosecution objects to the dismissal. There are several exceptions in the statute allowing for civil compromise. One of the exceptions disallows compromise of cases between spouses and former spouses, or persons living together in a family or spousal relationship. The exception does not, however, include all domestic violence crimes. For example, it does not include domestic violence by a person who lived with another person if the court determines that the relationship was not a spousal relationship. This bill extends the disallowance of civil compromise to all cases involving domestic violence as defined in the Domestic Violence Prevention and Victim Protection Act of 1996. Civil compromise is not appropriate in domestic violence cases. This bill ensures that it will not occur.

This bill continues the state's efforts to better protect victims of crimes and deserves your favorable consideration.

Sincerely,


Tony Knowles
Governor