

**HB**

**317**

SFIN

FILE

# SENATE FINANCE COMMITTEE REPORT

DATE: 5/11/02

FURTHER:

RECEIVED

MAY 12 2002

SENATE FINANCE

DATE TURNED  
IN TO OFFICE:

12 May 2002

Finance Committee considered **CS FOR HOUSE BILL NO. 317(FIN)**

**HB 317 STALKING & PROTECTIVE ORDERS**

"An Act relating to stalking and to violating a protective order; and amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
Law	3/1/02		✓	#1
Corrections	3/5/02	*		#2
Admin	3/6/02	*		#3
Public Safety	4/15/02		✓	#5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Lynda Green</i>	✓			
<i>Alan Curtis</i>	✓			
<i>Jim Hoff</i>	✓			
<i>Bill</i>	✓			
<i>Sony Wilke</i>	✓			
<i>Don</i>	✓			
<i>Robert Leman</i>	✓			
COCHAIR: <i>Carl Douglas</i>	✓			
COCHAIR: <i>Pat Kelly</i>	✓			

MAY 12 2002

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 3  
Bill Version: CSHB 317(JUD)  
(H) Publish Date: 4/9/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Administration  
Title "An Act relating to stalking..." BRU Legal and Advocacy Services  
Component Public Defender Agency  
Sponsor Rep. Crawford  
Requester (H) JUD Component No. 1631

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	*	*	*	*	*	*

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
<b>TOTAL</b>	*	*	*	*	*	*

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416  
Division: Public Defender Agency Date/Time 3/6/02 11:18 AM  
Approved by: Jim Duncan, Commissioner Date 3/6/2002  
Agency: Department of Administration

**FISCAL NOTE**

**STATE OF ALASKA  
2002 LEGISLATIVE SESSION**

**BILL NO. CSHB 317(JUD) - FN#3**

**ANALYSIS CONTINUATION**

This legislation would create a new section in the protective order statutes to provide for the application and issuance of a protective order for victims of the crime of stalking, that is not a crime of domestic violence. Under the proposed legislation, if a person allegedly violates the protective order, they may be prosecuted for the crime of violating a protective order, a class A misdemeanor.

This legislation will likely have a fiscal impact on the Public Defender Agency, because it broadens the scope of the crime of violating a protective order, which will likely result in more cases, handled by the Agency, charging a violation of this crime. However it is not possible to predict with any certainty the number of new cases this bill will generate, therefore an indeterminate fiscal note is submitted.

MAY 1 2 2002

# FISCAL NOTE

STATE OF ALASKA  
2002 LEGISLATIVE SESSION

Fiscal Note Number: 5  
Bill Version: CSHB 317(FIN)  
(H) Publish Date: 4/17/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: DPS  
Title An Act relating to stalking . . . BRU Statewide Support  
Component APSIN  
Sponsor Representative Crawford  
Requester House Finance Component No. 528

### Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
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

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 (Specify Type--Do not abbreviate)						
<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 (FY2002) cost: 0.0  
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

### POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)  
  
This bill will have no fiscal impact on the department.

Prepared by: Diane Schenker, Administrative Manager, CJIS Phone (907) 269-5092  
Division Administrative Services Date/Time 4/15/02 2:26 PM  
Approved by: Commissioner Glenn Godfrey Date 4/15/2002  
Agency Department of Public Safety

# FISCAL NOTE

COMMITTEE COPY  
MAY 12 2002

**STATE OF ALASKA**  
**2002 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
Bill Version: CSHB 317(JUD)  
(H) Publish Date: 4/9/02

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Corrections  
Title An Act relating to stalking and amendi BRU Administration and Operations  
Rule 4, Alaska Rules of Civil Procedure..... Component All  
Sponsor Representative Crawford  
Requester House Judiciary Component No. 64

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

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

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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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-Do not abbreviate)						
<b>TOTAL</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>	<b>***</b>

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This legislation creates a new provision to include protective orders related to non-domestic violence stalking. In addition, it includes a violation of this protective order to AS 11.56.740(a). That creates a new provision to the crime of "violating a protective order".

It is expected that there will be relatively few stalking protective orders. In order to obtain a stalking protective order, the victim essentially has to prove that the stalking occurred, and then the stalker can be arrested which will probably be the preferred response. We do not currently have the availability of the protective orders so we do not know how many will be issued, and then subsequently violated, therefore, we are submitting an indeterminate fiscal note.

Prepared by: Candace Brower Phone 465-4652  
Division: Commissioner's Office Date/Time 3/5/02 2:33 PM  
Approved by: Margaret Pugh, Commissioner Date 3/5/02  
Agency: Department of Corrections.

Alaska State Legislature  
House of Representatives

Alaska State Capitol  
Juneau, Alaska 99801-1182  
1-907-465-3438 (phone)  
1-888-478-3438 (toll free)  
1-907-465-4565 (fax)



Interim Address  
716 West Fourth Avenue  
Anchorage, Alaska 99501-2133  
(phone) 1-907-269-0100  
(fax) 1-907-269-0105

Representative Harry Crawford  
District 22

**REPRESENTATIVE HARRY CRAWFORD  
SPONSOR STATEMENT FOR HB 317**

HB 317 closes a dangerous loophole in Alaska statutes, by allowing unacquainted victims of stalking to enjoy the security of a judicial protective order. Current law provides protection to those in the domestic situations and minor children, but enjoins the victims of strangers from equal protection of the law. HB 317 allows the victims of stalking to seek and obtain a protective order in cases of stalking that are not crimes of domestic violence. The bill streamlines the process for public safety and judicial practitioners by harmonizing the arrest and notifications procedures to mirror those already in place for domestic violence situations. The bill adds the crime of violation of a child protective order and of a violation of a stalking protective order, these changes also reflect existing practitioner procedures.

I urge your support for this necessary change in the law.

## CS FOR HOUSE BILL 317(JUD)

### SECTIONAL SUMMARY

**Section 1** amends the law prohibiting the violation of a protective order to include the violation of a protective order for stalking.

**Section 2** amends the mandatory arrest provision for violation of a domestic violence protective order under certain circumstances to exclude the violation of a protective order for stalking from the mandatory arrest requirement.

**Section 3** adopts a new article in AS 18.65 to allow a person who is a stalking victim to request a protective order from a judicial officer that orders the alleged stalker to stay away from the victim. Specifically, the bill provides the following:

A person who reasonably believes that he or she is the victim of stalking may file a petition in the district or superior court for a protective order. A parent may file on behalf of a minor.

After a petition is filed, 10 days' notice to the alleged stalked is required before a hearing on the petition may be held. A protective order may be issued if the court finds by a preponderance of evidence the respondent has committed stalking against the petitioner. The protective order after notice and a hearing is effective for six months.

The court, in issuing a protective order may grant the following relief:

1. Prohibit the respondent from further stalking;
2. Prohibit the respondent from communicating directly or indirectly with the petitioner or a family member of the petitioner specifically named in the order;
3. Direct the respondent to stay away from the home, school, place of employment of the petitioner, or any other place specified in the order; however, the court may only order the respondent to stay away from the respondent's own home, school, or place of employment if the respondent has had actual notice and an opportunity to be heard on the petition.

The court may order a protective order for stalking and issue the order ex parte. The court may do so only if it finds probable cause that a crime of stalking has occurred, that the order is necessary to protect the petitioner, and the petitioner has certified the efforts, if any, that have been made to notify the respondent. An ex parte protective order expires 20 days after it is issued unless dissolved earlier at the request of the petitioner or respondent and, if requested, after a hearing.

A peace officer, on behalf of a stalking victim, may request an emergency protective order from a judicial officer. If the court finds probable cause that the petitioner is in immediate danger of stalking based on recent stalking, the court shall issue an emergency protective order. The emergency order expires 72 hours after it is issued unless dissolved earlier at the request of the petitioner.

There is a procedure for the modification of protective orders issued ex parte and after a hearing, at the request of either the petitioner or respondent. A hearing is required before the order may be modified.

Provisions for service of process, forms for petitions and protective orders, and notice of the rights of stalking victims are included.

**Section 4** is a conforming amendment to the definition of domestic violence.

**Section 5** is a conforming amendment that provides that a district court judge and a magistrate may issue a protective order for stalking in addition to a domestic violence protective order.

**Section 6** provides that section 3 of the bill have the effect of indirectly amending court rules relating to preliminary injunctions, fees, and service of process.

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1 **Approved**

Submitted by: Assemblymembers TAYLOR, Tesche,  
Von Gemmingen

2  
3  
4 Date: 3/19/02

Prepared by: Department of Assembly  
For reading: March 19, 2002

5  
6 **ANCHORAGE, ALASKA**  
7 **AR NO. 2002-85**

8  
9 **A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING HOUSE BILL**  
10 **NO. 317, "AN ACT RELATING TO STALKING AND AMENDING RULE 4, ALASKA RULES OF**  
11 **CIVIL PROCEDURE, AND RULE 9, ALASKA RULES OF ADMINISTRATION."**  
12

13  
14 WHEREAS, according to the Anchorage Police Department, there were 22 reported cases  
15 of stalking in the year 2000 which may not reflect the number of possible other victims who were  
16 too fearful to come forward; and

17  
18 WHEREAS, current law provides protection to those in domestic situations and minor  
19 children, but does not protect victims who are stalked by strangers; and

20  
21 WHEREAS, House Bill No. 317 (HB 317), introduced by Representative Crawford, proposes  
22 to close a dangerous loophole in the current Statues by providing equal protecion to those being  
23 stalked by a stranger; and

24  
25 WHEREAS, HB 317 would allow the victims of stalking to seek and obtain a protective order  
26 in cases of stalking that are not crimes involving domestic violence, and would also streamline the  
27 process by integrating the arrest and notification procedures to mirror the current law for domestic  
28 violence situations; and

29  
30 WHEREAS, upon passage, HB 317 would provide three different types of protective orders  
31 to include an emergency order for three days, another order for 20 day, and one for six months and  
32 longer; and

33  
34 WHEREAS, HB 317 represents a long overdue law and it is only fair that any citizen who  
35 believes that their life is threatened, whether by the known or the unknown, are protected and  
36 provided a sense of security within the community.

37  
38 NOW, THEREFORE, the Anchorage Assembly resolves:

39  
40 Section 1: That the Anchorage Assembly supports and urges passage of House Bill No.  
41 317.

42  
43 Section 2: That copies of this resolution be forwarded to the Alaska State Legislature and  
44 the Governor immediately upon passage and approval.

45  
46 PASSED AND APPROVED by the Anchorage Assembly this \_\_\_\_\_ day of \_\_\_\_\_,  
47 2002.

48  
49  
50 \_\_\_\_\_  
51 Chair

52 ATTEST:

53  
54  
55 \_\_\_\_\_  
56 Municipal Clerk

57  
58 EGJ/2002/RESOLUTIONS/AR28

MAR 21 2002

**Municipality  
of  
Anchorage**



P.O. Box 196650  
Anchorage, Alaska 99519-6650  
Telephone: (907) 343-4250  
Fax: (907) 274-6689  
<http://www.ci.anchorage.ak.us>

*George P. Wuerch, Mayor*

DEPARTMENT OF LAW  
Office of the Prosecutor  
420 L Street, Suite 100

April 18, 2002

Representative Harry Crawford  
State Capitol Building, Room 426  
Juneau, Alaska 99801

FAX: 907-465-4565  
Hard copy will follow by mail.

Dear Representative Crawford:

I am writing on behalf of the Municipal Department of Law regarding HB 317. You may recall I testified telephonically from Anchorage on March 6, 2002, in support of the bill. We continue to support the bill as amended, and are pleased it left committee with unanimous support.

While we were able to help Ms. Wells in ultimately resolving the problem, it was only after some delay in process because of the lack of a procedural safeguard which your bill covers. When your bill becomes law, a victim of stalking-type conduct will be able to seek judicial intervention and protection at an earlier phase of the criminal justice process, which provides an additional law enforcement tool and greater victim safety.

Thank you for allowing us to participate and provide input into this issue. If you have any further questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Bruce Roberts", is written over a horizontal line. The signature is stylized and somewhat cursive.

R. Bruce Roberts  
Deputy Municipal Attorney  
Department of Law  
Criminal Division

**ALASKA NETWORK ON  
DOMESTIC VIOLENCE AND SEXUAL ASSAULT**

130 Seward, Rm 209  
Juneau, Alaska 99801

(907) 586-3650 ph  
(907) 463-4493 fx

HB317

The Network supports HB317. HB317 creates protective orders for victims of stalking that is not domestic violence.

A person who reasonably believes that she or he is a victim of stalking may file a petition in a district or superior court for a stalking protective order.

Three types of orders are created: an emergency order valid for 72 hours; an ex parte order valid for 20 days; and, a regular order valid for 6 months.

The protective order may prohibit the respondent from threatening to commit or committing stalking; prohibit the respondent from telephoning, contacting, or otherwise communicating directly or indirectly with the petitioner or a designated household member of the petitioner; and/or direct the respondent to stay away from the residence, school, or place of employment of the petitioner, or any specified place frequented by the petitioner.

The respondent cannot be ordered to stay away from his own residence, school, or place of employment unless he has been provided actual notice of the opportunity to appear and be heard on the petition.

Either the petitioner or respondent may request a modification to the order.

The bill is necessary because while stalking behavior is easy to recognize it is hard to prove by a clear and convincing standard of evidence which is necessary for a criminal conviction. The civil standard of proof by a preponderance of the evidence is high enough to safeguard the alleged stalker's rights, but not so high that victims of this serious crime cannot gain some judicial relief. Please assist victims of stalking in obtaining some relief from their plight by passing HB317.

# SENATE COMMITTEE REPORT

DATE: 4/23/02

FURTHER: Finance

DATE TURNED  
IN TO OFFICE:

5/10/02

Judiciary Committee considered

CS FOR HOUSE BILL NO. 317(FIN)

HB 317 STALKING & PROTECTIVE ORDERS

"An Act relating to stalking and to violating a protective order; and amending Rules 4 and 65, Alaska Rules of Civil Procedure, and Rule 9, Alaska Rules of Administration."

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
DOL	3/6/02		✓	1
DOC	3/25/02	X		2
DOA	3/26/02	X		3
DPS	4/15/02		✓	5

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John C. ...</i>	✓			
<i>John ...</i>			X	
<i>J. ...</i>	X			
CHAIR: <i>Chris Taylor</i>	✓			

SENATE FINANCE COMMITTEE  
HB 317-STALKING & PROTECTIVE ORDERS  
SIGN-IN

NAME: Lauree Hugenin Subject/Bill No: HB317  
Co./Dept./Title: Alaska Network on Domestic Violence <sup>Sexual</sup> Assault Phone: 586-3650  
Address: 130 Seward, room 209 Juneau Zip: 99801  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions

NAME: \_\_\_\_\_ Subject/Bill No: \_\_\_\_\_  
Co./Dept./Title: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_  
Do you wish to testify?  Yes  No  Respond To Questions