

SB

308

Senator Hollis French


Capitol Room 504
465-3892
465-6595 fax



MEMORANDUM

Date: March 11, 2004

To: Senator Ralph Seekins, Chair
Senate Judiciary Committee

From: Senator Hollis French 

RE: Request for Hearing on SB 308 – “An Act increasing the duration of certain provisions of domestic violence protective orders from six months to one year”

This is a request that you schedule a Judiciary Committee hearing on SB 308 – “An Act increasing the duration of certain provisions of domestic violence protective orders from six months to one year” at the earliest possible time. The bill passed out of the State Affairs Committee today and has a further referral to the Judiciary Committee.

I have attached a copy of the bill and a sponsor statement for your information. .
Additional materials will be made available to the committee aide prior to the meeting.

Attachments

ALASKA STATE LEGISLATURE

Senate
Judiciary
Committee
•
Senate
Labor & Commerce
Committee
•
Senate
Administrative
Regulation Review
Committee



While in Session
State Capitol
Juneau, Alaska 99801
(907) 465-3892
T (866) 465-3892
Fax: (907) 465-6595

While in Anchorage
716 West 4th Avenue
Anchorage, Alaska 99501
(907) 269-0234
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SENATOR HOLLIS FRENCH

Senator_Hollis_French@legis.state.ak.us
www.akdemocrats.org

SPONSOR STATEMENT

SB 308 – Increasing the duration of certain provisions of domestic violence protective orders from six months to one year

SB 308 addresses the duration of long-term domestic violence protective orders. Currently, six months is the practical limit on a long-term domestic violence protective order – otherwise known as a DVPO. SB 308 doubles the length of DVPOs to one year. Short-term, or *ex parte*, protective orders are not affected by this bill, and they would continue to be granted for a maximum of twenty days under current law.

The two parties to a DVPO are the petitioner, who is the person asking for the court's protection, and the respondent. Long-term DVPOs are only granted by a judge after formal notice to both parties and a hearing. In order to grant a DVPO, the judge must make a finding that the respondent has committed an act of domestic violence against the petitioner.

There are several benefits to this proposal. Of primary importance is that extending the time frame of a DVPO allows the petitioner a longer period of protection without having to go back to court to confront the respondent. A second benefit of extending the term of the protective order is that court system resources will be conserved. In many instances, petitioners are forced to return to court for a second order because the respondent's behavior has not changed. Granting the DVPOs for one year will decrease the need for repeat court proceedings.

Alaska continues to struggle with high rates of domestic violence, and extending the length of the domestic violence protective order is one way to address that problem. Currently, only five states have shorter terms for DVPOs than Alaska's. The vast majority of states, however, give judges the authority to impose DVPOs

of up to a year, or even longer, which has been shown to have a positive effect on the numbers of repeat offenses and requests for additional protective orders.

To look at some comparative statistics -- currently in Anchorage there are some 3,000 annual court filings for DVPOs. By comparison, Miami-Dade County, Florida, with a population of over two million, has only 7,000 filings per year. The lower ratio in Miami-Dade can be explained in part by the fact that in Florida there is no upper time limit on DVPOs.

Please join me in taking another step in our progress toward eliminating the scourge of domestic violence from our community and support SB 308.

March 11, 2004



**Alaska State Legislature
House and Senate
Democrats**

WEB: <http://www.akdemocrats.org>
CONTACT: Jordan Marshall, Press Secretary
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EMAIL: press@akdemocrats.org

FOR IMMEDIATE RELEASE • March 12, 2004

French Bill to Aid Domestic Violence Victims

JUNEAU – Victims of domestic violence would be protected for a longer time if Senate Bill 308 were adopted by the legislature. Introduced by Senator Hollis French (D-Anchorage), SB 308 doubles the duration of a domestic violence protective order from six months to one year. The bill passed out of the Senate State Affairs Committee yesterday and is on its way to Senate Judiciary.

“Domestic violence protective orders, which are issued by a judge after a formal hearing, are seen by many professionals as one of the best ways to help protect victims,” said Senator French, a former prosecutor. “During my career I have prosecuted many cases of domestic violence and assault. I know that protective orders are not the sole answer to the scourge of domestic violence, but anything we can do to provide some extra assurance to victims is valuable.”

Short-term, or *ex parte*, protective orders are not affected by the bill, and they would continue to be granted for a maximum of twenty days under current law.

A recent study of the Anchorage domestic violence system by Emily J. Sack supported the concept proposed by French. “In addition,” says the report, “the length of a final protective order should be extended from six months to one year. A further extension would increase protection for victims, and eliminate the need for frequent reapplication for orders, reducing drain on court and clerk resources.”

Senator French notes that Alaska’s current six-month order is shorter than in most other states: domestic violence protective orders in 41 states are longer by statute. The one-year order proposed in SB 308 is, he said, a reasonable compromise and is the length adopted by 18 other states.

For information, call Senator Hollis French toll-free at (866) 465-3892.

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Putting Alaskans First • Moving Alaska Forward 2004

Sen. Bettye Davis, Sen. Johnny Ellis, Sen. Kim Elton, Sen. Lyman Hofman, Sen. Hollis French, Sen. Gretchen Guess, Sen. Georgianna Lincoln, Sen. Donny Olson, Rep. Einar Berkowitz, Rep. Sharon Cissna, Rep. Harry Crawford, Rep. Eric Croit, Rep. Les Gara, Rep. Max Gruenberg, Rep. David Guttenberg, Rep. Reggie Joule, Rep. Mary Kapsner, Rep. Beth Kerttula, Rep. Albert Kookesh, Rep. Carl Moses

What are the time limits on civil protection orders in each state?*

*Does not include extensions in all instances.

Questions, requests for technical assistance or requests for additional copies of this document should be directed to: BWJP Civil Justice Center @ 1-800-903-0111, ext. 2

Updated as of 4/4/2003

| Time Limit | State | State Code Provision |
|--------------------------------|---------------|--|
| <i>3 months (2 states)</i> | Idaho | IDAHO CODE § 39-6306(5) (2002): Not less than three months; may be renewed for one year terms. |
| | Wyoming | WYO. STAT. ANN. § 35-21-106(b) (2002): Not to exceed three months; may be extended for good cause for 3 month terms. |
| <i>90 – 180 days</i> | West Virginia | W. VA. CODE § 48-27-505 (2003): 90 days or 180 days at the discretion of the court. |
| <i>150 days</i> | Utah | UTAH CODE ANN. § 30-6-4.2(6)(a) (2003): 150 days unless court indicates on the record the reason for setting a date beyond the 150 days. |
| <i>182 days</i> | Michigan | MICH. COMP. LAWS § 600.2950 (13) (2002): not less than 182 days. |

| Time Limit | State | State Code Provision |
|---|-------------|---|
| <p data-bbox="389 444 508 515"><i>6 months (4 states)</i></p> | Alaska | ALASKA STAT. § 18.66.100c(2) (2003): 6 months or earlier. An order that prohibits respondent from threatening to commit or committing domestic violence, stalking, or harassment is effective until further order of the court. |
| | Connecticut | CONN. GEN. STAT. § 46b-15(d) (2003): Not to exceed six months, can be extended by court. |
| | Georgia | GA. CODE ANN. § 19-13-4(c) (2002): No more than six months, but can be converted to a permanent order upon the motion of a petitioner and notice to the respondent and after a hearing. |
| | New Mexico | N.M. STAT. ANN. § 40-13-6(B) (2002): Not to exceed six months. <u>May be extended in six month increments upon motion by petitioner.</u> |

| Time Limit | State | State Code Provision |
|---------------------------------|----------------------|--|
| <i>One year (18 states)</i> | Alabama | ALA. CODE § 30-5-7(e)(1) (2003): One year, unless a shorter or longer period of time is expressly ordered by the court. |
| | Arizona | ARIZ. REV. STAT. § 13-3602(K) (2003): One year after service on defendant. |
| | Delaware | DEL. CODE ANN. tit. 10, § 1045 (b) (2002): Not to exceed one year, can be extended for up to 6 month term. |
| | District of Columbia | D.C. CODE ANN. § 16-1005(d) (2003): One year; can be extended for good cause shown. |
| | Iowa | IOWA CODE § 236.5-(c) (2003): Not to exceed one year. Extensions are not limited. |
| | Kansas | KAN. STAT. ANN. § 60-3107(e) (2002): Not to exceed one year; can be extended for one additional year. |
| | Maryland | MD. CODE ANN., FAM. LAW § 4-506(g) (2002): Not to exceed 12 months. |
| | Massachusetts | MASS. GEN. LAWS. ch. 209A, § 3(i) (2003): Not to exceed one year. Extensions possible. |
| | Minnesota | MINN. STAT. § 518B.01(6)(b) (2002): One year, except when the court determines that a longer fixed period is appropriate. |
| | Missouri | MO. REV. STAT. § 455.040(1) (2003): 180 days to one year. Extensions possible for 180 days to 1 year. |
| | Nebraska | NEB. REV. STAT. § 42-924(3) (2002): One year. |
| | Nevada | NEV. REV. STAT. § 33.080(3) (2002): Not to exceed one year. |
| | New Hampshire | N.H. REV. STAT. ANN. § 173-B:5(VI): Not to exceed one year. Extensions possible. |

| Time Limit | State | State Code Provision |
|---|----------------|--|
| <i>One year continued (18 States)</i> | New York | N.Y. FAM. CT. ACT § 842 (2003): Not to exceed one year. Up to three years if aggravating circumstances exist. |
| | North Carolina | N.C. GEN. STAT. § 50B-3(b) (2003): Not to exceed one year. Extensions possible for 1 year terms. |
| | Oregon | OR. REV. STAT. § 107.718- <u>(1)</u> (2001): One year. |
| | South Carolina | S.C. CODE ANN. § 20-4-70(<u>A</u>) (2002): Not less than 6 months nor more than one year. Extensions possible. |
| | Tennessee | TENN. CODE ANN. § 36-3-608(a) (2002): Not to exceed one year. |

| Time Limit | State | State Code Provision |
|---------------------------------------|--------------|---|
| <i>1 year 6 months (2 states)</i> | Louisiana | LA. REV. STAT. ANN. § 46:2136(F) (2003): Not to exceed 18 months. Extensions possible. |
| | Pennsylvania | PA. STAT. ANN. tit. 23, § 6108(d) (2002): Not to exceed 18 months. Extensions possible. |
| <i>Two years (6 states)</i> | Arkansas | ARK. CODE ANN. § 9-15-205(b) (2002): not less than 90 days nor more than 2 years. Extensions possible. |
| | Illinois | 725 ILL. COMP. STAT. 5/112A-20(b) (2003): Not to exceed 2 years. Extensions possible. |
| | Indiana | IND. CODE § 34-26-5-9(e) (2002): Up to 2 years after issuance, unless another date is ordered by the court. |
| | Maine | ME. REV. STAT. ANN. tit. 19-A, § 4007-(2) (2003): Not to exceed two years. Extensions possible. |
| | Texas | TEX. FAM. CODE ANN. § 85.025(a) (2002): Not to exceed two years. Extensions possible. |
| | Virginia | VA. CODE ANN. § 16.1-279.1-(B) (2003): Up to two years. |

| Time Limit | State | State Code Provision |
|-----------------------------------|--------------|---|
| <i>Three years (6 states)</i> | California | CAL. FAM. CODE § 6345(a) (2003): Personal conduct, stay-away, and residence exclusion orders may have a duration of not more than three years. The duration of orders for custody, visitation, support and disposition of property shall be governed by the law relating to those specific subjects. Orders may be renewed for 3 year term or be permanent. |
| | Kentucky | KY. REV. STAT. ANN. § 403.750(2) (2002): Not to exceed three years. Renewable for 3 year term unlimited. |
| | Mississippi | MISS. CODE ANN. § 93-21-17(2) (2003): Not to exceed three years. |
| | Oklahoma | OKLA. STAT. tit. 22, § 60.4(H) (2003): Not to exceed three years. Extension possible. |
| | Rhode Island | R.I. GEN. LAWS § 8-8.1-3(d) (2002): Not to exceed three years. Extension possible. |
| | South Dakota | S.D. CODIFIED LAWS § 25-10-1(3) (2002): 3 years or less. |
| <i>Four years (1 state)</i> | Wisconsin | WIS. STAT. § 813.12(4)(c)1. (2002): 4 years. <u>Extensions possible for four years if original order was for less than four years.</u> |
| <i>Five years (1 state)</i> | Ohio | OHIO REV. CODE ANN. § 3113.31(E)(3)(a) (Anderson 2002): No longer than five years. |

| Time Limit | State | State Code Provision |
|---|--------------|--|
| <i>Permanent (4 states)</i> | Colorado | COLO. REV. STAT. § 13-14-102(5) (2002): Can be permanent. Awards for temporary care and custody of any minor child are for a period of not more than 120 days. |
| | Montana | MONT. CODE ANN. § 40-15-204(5) (2002): Order may continue for appropriate time period as ordered by the court or be made permanent. |
| | New Jersey | N.J. STAT. ANN. § 2C:25-28-(p) (2002): Can be permanent. |
| | Washington | WASH. REV. CODE § 26.50.060(2) (2003): Civil court may grant relief for a period: not to exceed one year if respondent is restrained from contacting minor children, otherwise, with regard to other relief, court may grant relief for a fixed period or enter a permanent order of protection. |
| <i>No time frame specified (4 states)</i> | Florida | FLA. STAT. ch. 741.50(6)(c) (2002): Terms of order shall remain in effect until modified or dissolved. |
| | Hawaii | HAW. REV. STAT. § 586-5.5-(a) (2003): Fixed reasonable period as the court deems appropriate. Extensions possible. |
| | North Dakota | N.D. CENT. CODE § 14-07.1-02 (2002): No limits stipulated. |
| | Vermont | VT. STAT. ANN. tit. 15, §§ 1103(c)(5),(6), 1103(d) (2003): Orders for child support or spousal support are not to exceed three months. Fixed periods determined by court. Extensions possible. |

*MUNICIPALITY OF
ANCHORAGE*

**2004
LEGISLATIVE
PROGRAM**

"Building Anchorage for the New Millennium"



**Mark Begich
Mayor**

**2004 STATE LEGISLATIVE PROGRAM
MUNICIPAL PRIORITY ISSUES
LEGISLATION**

ISSUE/PROJECT NAME: Strengthen Restraining Orders for Domestic Violence and Sexual Assault

ISSUE/IMPROVEMENT TYPE: Legislation

PRIORITY: 6

ISSUE/PROJECT DESCRIPTION:

Under current law a victim of Domestic Violence and Sexual Assault must continuously seek a Protective Order every six months, because of the current jurisdictional limit for Protective Orders. In an average court docket of twelve cases in which a victim seeks a protective order, as many as seven or eight petitioners have one or more prior filings. The impact on APD and court resources is immense. Extending the time of a Protective Order from six months to one year or eighteen months would have a positive impact on the community and public safety resources and increase victim safety.

POLITICAL SUBDIVISIONS:

Community Council: Areawide

Assembly Section: All

Legislative District(s):

House: 16-32

Senate: I-P

CONTACT PERSON: Beverly Wooley, Director, Dept of Health & Human Services,
343-6300

[Fwd: Non Constituent POMS Re:SB 308]

Subject: [Fwd: Non Constituent POMS Re:SB 308]

Date: Sat, 13 Mar 2004 14:31:38 -0900

From: Minta Montalbo <Minta_Montalbo@Legis.state.ak.us>

Organization: Alaska State Legislature

Subject: Non Constituent POMS Re:SB 308

Date: Fri, 12 Mar 2004 17:57:14 -0900

From: <POMS@legis.state.ak.us>

To: <Minta_Montalbo@legis.state.ak.us>

Zachary Fansler
Po Box 3287

Bethel AK, 99559

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS

SUBJECT:

MESSAGE: Please support this bill extending the duration of long term protective orders will give victims a longer period of time to develop strategies to increase their safety and will lessen a perpetrators ability to use court dates as an avenue for further harassment. Thank you.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Sen. Stedman,
Sen. Stevens G

[Fwd: Non Constituent POMS Re:SB 308]

Subject: [Fwd: Non Constituent POMS Re:SB 308]
Date: Sat, 13 Mar 2004 14:32:09 -0900
From: Minta Montalbo <Minta_Montalbo@Legis.state.ak.us>
Organization: Alaska State Legislature

Subject: Non Constituent POMS Re:SB 308
Date: Fri, 12 Mar 2004 17:54:31 -0900
From: <POMS@legis.state.ak.us>
To: <Minta_Montalbo@legis.state.ak.us>

Annie E Farmer
Po Box 3063

Bethel AK, 99559

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS
SUBJECT:

MESSAGE: Please support this bill extending the duration of long term protective orders will give victims a longer period of time to develop strategies to increase their safety and will lessen a perpetrators ability to use court dates as an avenue for further harassment. Thank you.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Sen. Stedman,
Sen. Stevens G

[Fwd: Non Constituent POMS Re:SB 308]

Subject: [Fwd: Non Constituent POMS Re:SB 308]
Date: Fri, 12 Mar 2004 15:12:47 -0900
From: Minta Montalbo <Minta_Montalbo@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Chrystal Smith <Chrystal_Smith@legis.state.ak.us>

--

Minta Montalbo
Office of Sen. Hollis French
<http://www.akdemocrats.org>

Subject: Non Constituent POMS Re:SB 308
Date: Fri, 12 Mar 2004 10:15:42 -0900
From: <POMS@legis.state.ak.us>
To: <Minta_Montalbo@legis.state.ak.us>

Joan Adams
717 9th Ave

Fairbanks AK, 99701

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS
SUBJECT:

MESSAGE: Extension to one year would allow perpetrators to complete a batterer's intervention program prior to reunification with their family thereby increasing victim safety (we hope). It also saves in court expenses.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Sen. Stedman,
Sen. Stevens G

[Fwd: Non Constituent POMS Re:SB 308]

Subject: [Fwd: Non Constituent POMS Re:SB 308]
Date: Thu, 11 Mar 2004 14:53:28 -0900
From: Minta Montalbo <Minta_Montalbo@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Chrystal Smith <Chrystal_Smith@legis.state.ak.us>

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Minta Montalbo
Office of Sen. Hollis French
<http://www.akdemocrats.org>

Subject: Non Constituent POMS Re:SB 308
Date: Thu, 11 Mar 2004 14:27:55 -0900
From: <POMS@legis.state.ak.us>
To: <Minta_Montalbo@legis.state.ak.us>

Sandra C Bond
700 Lathrop St
700 Lathrop St
Fairbanks AK, 99701-4146

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS
SUBJECT:

MESSAGE: As a legal advoctae, I know that extending the time a TRO is effective from 6 months to 1 year will help them immensely. Going from hearing to hearing almost immediately places a huge burden on the victim in terms of emotional, financial and physical resources.

DISTRIBUTION: Sen. French

[Fwd: Non Constituent POMS Re:SB 308]

Subject: [Fwd: Non Constituent POMS Re:SB 308]
Date: Thu, 11 Mar 2004 16:12:23 -0900
From: Minta Montalbo <Minta_Montalbo@Legis.state.ak.us>
Organization: Alaska State Legislature
To: Chrystal Smith <Chrystal_Smith@legis.state.ak.us>

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Minta Montalbo
Office of Sen. Hollis French
<http://www.akdemocrats.org>

Subject: Non Constituent POMS Re:SB 308
Date: Thu, 11 Mar 2004 15:44:19 -0900
From: <POMS@legis.state.ak.us>
To: <Minta_Montalbo@legis.state.ak.us>

Karla J Bouray
3291 Balika Ln
3291 Balika Ln
Kodiak AK, 99615

Email:

Non Constituent Amends

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS
SUBJECT:

MESSAGE: If a woman is given extra time to regain her self-esteem in safety, free from the pressure of an abuser she is less likely to go back into the same abusive situation.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Rep. Ogg,
Sen. Stedman, Sen. Stevens G

Subject: Non Constituent POMS Re:SB 308

Date: Thu, 11 Mar 2004 11:03:16 -0900

From: <POMS@legis.state.ak.us>

To: <Minta_Montalbo@legis.state.ak.us>

Letitia A Raub
Po Box 3663
Po Box 3663
Kodiak AK, 99615-3663

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS

SUBJECT:

MESSAGE: Please support extending the duration of regular protective orders from six months to one year. This will give victims more time to develop strategies to increase their safety and lessen perpetrators ability to use court dates to further harass their victims.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Sen. Stedman,
Sen. Stevens G

Subject: Non Constituent POMS Re:SB 308

Date: Thu, 11 Mar 2004 11:11:59 -0900

From: <POMS@legis.state.ak.us>

To: <Minta_Montalbo@legis.state.ak.us>

Jackie L Adamson
Po Box 3776
Po Box 3776
Kodiak AK, 99615-3776

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS

SUBJECT:

MESSAGE: I support SB 308. The extension will give victims time to heal, plan and work with professionals before having to face the court system, again which in itself can be devasatating for the victim.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Stevens G

Non Constituent POMS Re:SB 308

Subject: Non Constituent POMS Re:SB 308

Date: Thu, 11 Mar 2004 11:43:21 -0900

From: <POMS@legis.state.ak.us>

To: <Minta_Montalbo@legis.state.ak.us>

Rebecca A Shields
Po Box 651
Po Box 651
Kodiak AK, 99615-0651

Email:

Non Constituent Supports

BILL#: SB 308 DOMESTIC VIOLENCE PROTECTIVE ORDERS

SUBJECT:

MESSAGE: I support this legislation. I think it will save time for the courts and provide a safer situation for ongoing harassment.

DISTRIBUTION: Sen. Cowdery, Sen. French, Sen. Guess, Sen. Hoffman, Rep. Ogg,
Sen. Stedman, Sen. Stevens G