

HB

307

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 4/4/08

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Finance Committee considered CS FOR HOUSE BILL NO. 307(FIN)

HB 307 ASSAULTS: REPEAT OFFENDERS

"An Act relating to penalizing certain misdemeanor domestic violence assaults as felonies."

and recommends:

- [] be replaced with [] SCS or [] CS _____
- [X] adopt previous [X] SCS or [] CS HB 307 (Jud)
- [] attached amendment(s)
- [] adopt _____ Letter of Intent
- [] further referral to _____ Committee

SENATE BILL:	
[]	Same Title
[]	New Title
<hr/>	
HOUSE BILL:	
[]	Same Title
[]	Technical Title Change
[]	New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
Law	4/7/08		✓		
ADM	4/9/08			✓	
ADM	4/8/08			✓	
CRJ	4/4/08				

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
DPS	2/19/08			✓	4

[] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Huggins	✓			
	Nelson	✓			
CO-CHAIR:					
	Stamm	✓			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: 4
Bill Version: CSHB 307(FIN)
(H) Publish Date: 3/18/08

Identifier (file name): HB307-DPS-DET-02-19-08 Public Safety
Title "An Act relating to penalizing certain misdemeanor domestic violence offenses as felonies." RDU Alaska State Troopers
Component AST Detachments
Sponsor Representative Holmes
Requester House Finance Component Number 2325

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	0.0

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

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

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

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

This bill imposes enhanced penalties for certain domestic violence offenses under AS 11.41. If a person has been previously convicted on two or more separate qualifying offenses, then the crime and penalty are increased to a class C felony.

Passage of this legislation will not increase the number of arrests made or cases referred for prosecution. This bill will have no fiscal impact on the department.

Prepared by: Lt. Rodney Dial
Division: Alaska State Troopers
Approved by: Walt Monegan, Commissioner
Department of Public Safety

Phone 907-269-5591
Date/Time 2/19/08 3:47 PM
Date 2/19/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: HB307SCSCS(JUD)-LAW-CRIM-04-07-08
 Bill Version: SCSCSHB307(JUD)
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: LAW
 Title An Act relating to crimes of domestic violence. RDU Criminal
 Component Criminal Justice Litigation
 Sponsor REPRESENTATIVE(S) HOLMES
 Requester SENATE FINANCE Component Number 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information					
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES							
Personal Services
Travel							
Contractual							
Supplies							
Equipment							
Land & Structures							
Grants & Claims							
Miscellaneous							
TOTAL OPERATING

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	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 Interagency Receipts							
TOTAL	.	.	.	.	.	.	.

Estimate of any current year (FY2008) cost: 0.0

POSITIONS

Full-time							
Part-time							
Temporary							

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: Robert Meiners, Administrative Services Manager
 Division: Administrative Services Division
 Approved by: Talis Colberg, Attorney General
Department of Law

Phone 907.465.5427
 Date/Time 4/7/08 11.45 AM
 Date 4/7/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. SCSCSHB307(JUD)

ANALYSIS CONTINUATION

SCSCSHB 307 makes a conviction for Assault in the Fourth Degree (excluding fear assaults) a class C felony if the defendant, within the prior 10 years, has been convicted of two or more crimes against a person. The predicate offenses include homicide, assault, stalking, and first, second, and (in some instances) third degree sexual assault.

The draft also clarifies that a prior conviction would not be counted unless the offense occurred after the effective date of the bill.

The bill increases the classification of the offense (Assault in the fourth degree under the conditions described above) to a class C felony. Felony offenses are generally more expensive than misdemeanor cases; however, it is difficult to predict with any certainty the fiscal impact this bill may have for the department and it should be considered indeterminate at this time.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SCS CSHB 307(JUD)
 () Publish Date: _____

Identifier (file name): _____ Dept. Affected: Administration
 Title "An Act relating to penalizing certain misdemeanor assaults as
as felonies." RDU Legal and Advocacy Services
 Component Public Defender Agency
 Sponsor Representative Holmes
 Requester Senate Finance Committee Component Number 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Prepared by Senator Bert Stedman
Senate Finance Committee, Co-Chair
Senator Lyman Hoffman
Senate Finance Committee, Co-Chair

Phone 3873
 Date/Time 4/8/2008/ 1:25 pm
 Date 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as
as felonies." RDU: Legal and Advocacy Services
Sponsor: Rep. Holmes, Gara, Dahlstrom, Fairclough, Johnson, etc. Component: Office of Public Advocacy
Requester: Senate Finance Committee Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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	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 Interagency Receipts								
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

Prepared by Senator Bert Stedman
Senate Finance Committee, Co-Chair
Senator Lyman Hoffman
Senate Finance Committee, Co-Chair

Phone 3873
Date/Time 4/8/2008/ 1:25 pm
Date 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): _____ Dept. Affected: Alaska Court System
Title: Assaults: Repeat Offenders RDU: Trial Courts
Component: Trial Courts
Sponsor: Representative Holmes
Requester: Senate Finance Committee Component Number: 768

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services				23.8	40.9	67.1	94.1	101.4
Travel				0.8	2.3	4.0	5.6	6.0
Contractual				19.7	50.7	86.0	121.5	130.4
Supplies				6.0	3.0	3.0	3.0	3.0
Equipment								
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING		0.0	0.0	50.3	96.9	160.1	224.2	240.8

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF				50.3	96.9	160.1	224.2	240.8
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL		0.0	0.0	50.3	96.9	160.1	224.2	240.8

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time								
Part-time				1	1	1	1	1
Temporary				1	1	1	1	1

ANALYSIS: (Attach a separate page if necessary)

SCS CSHB 307(JUD) will make a misdemeanor, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor in the first, second and third degree.

Continued on page 2.

Prepared by: Doug Wooliver, Administrative Attorney
Division: Alaska Court System
Approved by: Stephanie Cole, Administrative Director
Alaska Court System

Phone: 907-463-4750
Date/Time: 4/4/08 12:55 PM
Date: 4/4/08

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. SCS CSHB 307(JUD)

ANALYSIS CONTINUATION

Court records show that had this law been in place in calendar year 2007 the court would have seen approximately 600 misdemeanor crimes charged as felonies. Because felony crimes are more expensive and time-consuming than misdemeanor crimes, this bill will impact the court system.

This bill is prospective in that the only prior convictions that will apply will be those that occur on or after the effective date of this Act. Based on a study of their current population, the Department of Corrections estimates that the criminal justice system will see approximately 14% of these new felony offenders in FY 2010, 23% in FY 2011, 27% in both FY 2012 and 2013, and 6% in FY 2014.

This fiscal note reflects the cost of additional superior court judicial and clerical time as well as additional juror costs.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB307SCS CS (JUD)-DOC-PM-04-04-08
() Publish Date: _____

Identifier (file name): HB307-DOC-IDO-02-07-08 Dept. Affected: Corrections
Title: "An Act relating to penalizing certain misdemeanor assaults
as felonies." RDU: Population Management
Sponsor: Representative Holmes Component: Institution Director's Office
Requester: Senate Finance Component Number: 524

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
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 Interagency Receipts	.	.	.	.	.	.	.
TOTAL	.	.	.	.	.	.	.

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time	.	.	.	.	.	.	.
Part-time	.	.	.	.	.	.	.
Temporary	.	.	.	.	.	.	.

ANALYSIS: (Attach a separate page if necessary)

Passage of this legislation will have an impact on the Department of Corrections.

The department has calculated costs associated with the potential increase in mandays based on a blended rate (average of in-state and out-of-state daily bed rates) of \$85.00 per day.

(See page 2)

Prepared by: Sharleen Griffin, Director
Division: Administrative Services
Approved by: Dwayne Peoples, Deputy Commissioner
Department of Corrections

Phone: (907) 465-3339
Date/Time: 4/4/08 3:10 PM
Date: 4/4/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB307SCS CS (JUD)-DOC-PM-04-04-08

ANALYSIS CONTINUATION

One additional Adult Probation Officer position with support costs will be necessary when the total crime legislation increases the offender population by 80. The estimated cost for each required position is \$85,600..

Offender population is based on the Courts information reflecting 600 Assault IV cases which have the potential to become felony cases. In FY2007, the Courts reflected a 76% conviction rate of felony cases.

Based on the information provided by the Courts, the Department of Corrections anticipates an impact of up to approximately 456 offenders annually. The department is also estimating that each offender will be incarcerated for 18 months.

The following reflects the impact of the increased offender population with passage of this legislation as:

Anticipated offender growth impact :						
Increased mandays :						
	2009	2010	2011	2012	2013	2014
Total Annual Offender Count :	0	63	192	312	395	457
Total 6 Month Offender Count :			63	192	312	395
Increased Mandays :	0	22,995	81,546	149,136	200,959	238,695
Estimated annual costs :						
Blended Daily annual bed rate :	\$85.00					
Annual Incarceration Costs :	\$0	\$1,954,575	\$6,931,410	\$12,676,560	\$17,081,515	\$20,289,075
Probation Officer Costs :	\$0	\$0	\$0	\$85,600	\$256,800	\$513,600
Total Annual Costs :	\$0	\$1,954,575	\$6,931,410	\$12,762,160	\$17,338,315	\$20,802,675
PO PFT's :	0	0	0	1	3	6
Data from Offender Tracking Information System reflecting the percentage of time from 1st to 3rd conviction :						
	Months	Offenders	Percentage			
	0 - 12	75	13.86%			
	13 - 24	153	28.28%			
	25 - 36	142	26.25%			
	37 - 48	98	18.11%			
	49 - 60	55	10.17%			
	61 - 67	18	3.33%			
		541	100.00%			

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): HB307SCSCS(JUD)-DOA-OPA-4-08-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as felonies." RDU: Legal and Advocacy Services
Component: Office of Public Advocacy
Sponsor: Reps. Holmes, Gara, Dahlstrom, Fairclough, Johnson, etc.
Requester: _____ Component Number: 43

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services			20.2	53.5	92.5	131.5	144.5	
Travel			0.7	1.8	3.1	4.4	4.8	
Contractual			8.5	22.6	39.0	55.5	61.0	
Supplies			0.4	1.0	1.7	2.5	2.7	
Equipment			1.2	3.3	5.7	8.1	2.2	
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0	0.0	31.1	82.1	142.0	201.9	215.2	

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

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

FUND SOURCE (Thousands of Dollars)

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
1002 Federal Receipts							
1003 GF Match							
1004 GF	0.0	0.0	31.1	82.1	142.0	201.9	215.2
1005 GF/Program Receipts							
1037 GF/Mental Health							
Other Interagency Receipts							
TOTAL	0.0	0.0	31.1	82.1	142.0	201.9	215.2

Estimate of any current year (FY2008) cost: _____

POSITIONS

	FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
Full-time	0.0	0.00	0.00	0.00	0.00	0.00	1.00
Part-time	0.0	0	0	0	0	0	0
Temporary	0.0	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill will convert the class A misdemeanor crime of assault in fourth degree (physical crime against a person) into a class C felony for criminal defendants previously convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 -282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor.

Continued on page 2

Prepared by: Rachel Levitt, Acting Director Phone 907 269 3504
Division: Office of Public Advocacy Date/Time 4/8/08, 8:30 a.m.
Approved by: Flachael Petro, Deputy Commissioner Date 4/8/2008
Department of Administration

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. HB 307

ANALYSIS CONTINUATION

The Alaska Court System's records show that had this law been in place in calendar year 2007, there would have been 600 misdemeanor crimes charged as felonies. Because felony cases are more expensive and time consuming than misdemeanors, and because a number of these cases would otherwise be handled by municipal defenders rather than OPA, this bill will impact the Office of Public Advocacy. Although this bill is prospective, based upon numbers from the Department of Corrections, we believe that by 2014, the Agency will receive appointments in 130-180 new felony cases each year. This will result in the need for 1 new attorney position. We also anticipate increased contractual costs to pay for representation of clients in areas where OPA does not have staff attorneys or due to conflicts of interest.

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SCS CSHB 307(JUD)
() Publish Date: _____

Identifier (file name): HB307SCSCS(JUD)-DOA-PDA-4-08-08 Dept. Affected: Administration
Title: "An Act relating to penalizing certain misdemeanor assaults as felonies." RDU: Legal and Advocacy Services
Component: Public Defender Agency
Sponsor: Representative Holmes
Requester: Senate Finance Committee Component Number: 1631

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2009	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
OPERATING EXPENDITURES								
Personal Services			107.1	214.2	321.3	321.3	321.3	
Travel			2.6	5.2	7.7	7.7	7.7	
Contractual			19.1	38.2	57.2	57.2	57.2	
Supplies			1.7	3.4	5.0	5.0	5.0	
Equipment			6.7	13.4	20.1	20.1	20.1	
Land & Structures								
Grants & Claims								
Miscellaneous								
TOTAL OPERATING	0.0		137.2	274.4	411.3	411.3	411.3	411.3

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF			137.2	274.4	411.3	411.3	411.3	
1005 GF/Program Receipts								
1037 GF/Mental Health								
Other Interagency Receipts								
TOTAL	0.0	0.0	137.2	274.4	411.3	411.3	411.3	411.3

Estimate of any current year (FY2008) cost: _____

POSITIONS

Full-time			1	2	3	3	3
Part-time							
Temporary							

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

SCS CSHB 307(JUD) will make a misdemeanor, physical crime against a person (assault in the fourth degree) a class C felony if the defendant has been convicted two or more times of certain crimes against a person within the past ten years. The predicate crimes include assault crimes under AS 11.41.100 - 282 (excluding the non-physical crimes), most municipal assault offenses, stalking in the first and second degree, and first and second degree sexual assault and sexual abuse of a minor in the first, second and third degree.

Continued on page 2

Prepared by: Quinlan Steiner, Director
Division: Public Defender Agency
Approved by: Rachael Petro, Deputy Commissioner
Department of Administration

Phone: 907-334-4414
Date/Time: 4/8/08 8:35 AM
Date: 4/8/2008

FISCAL NOTE

STATE OF ALASKA
2008 LEGISLATIVE SESSION

BILL NO. CSSB 234(JUD)

ANALYSIS CONTINUATION

Court records show that had this law been in place in calendar year 2007 the court would have seen approximately 600 misdemeanor crimes charged as felonies. Because felony crimes are more expensive and time-consuming than misdemeanor crimes, this bill will impact the Agency.

This bill is prospective; only prior convictions that will apply will be those that occur on or after the effective date of this Act. The Agency expects as many as 300-425 new felony cases. The Agency anticipates the need for two new attorney positions and one law office assistant position due to the expected additional cases and to the increased complexity of cases that would have formerly been processed as misdemeanors.

ALASKA STATE LEGISLATURE



Representative Lindsey Holmes
Representative Nancy Dahlstrom
Representative Anna Fairclough
Representative Les Gara
Representative John Harris
Representative Craig Johnson
Representative Bob Buch
Representative Andrea Doll

**House Bill 307: "Three Domestic Violence Strikes:
3rd misdemeanor conviction will be charged as a felony."**

Sectional Analysis

Section 1. Adds intent language that establishes the defendant in a domestic violence case subject to an enhanced penalty must be the perpetrator of the crime and not an innocent victim of domestic violence.

Section 2. Amends Alaska Statute 11.41.220, assault in the third degree, to provide that when a person has been previously convicted on two or more separate occasions in the preceding 10 years of a domestic violence felony or of domestic violence assault in the fourth degree, then that person's third or next domestic violence assault in the fourth degree is increased to assault in the third degree and punished as a class C felony.

Section 3. Clarifies the date on which a conviction is understood to have occurred for purposes of the 10 year lookback. Defines "household member" for purposes of proving that a crime involved domestic violence.

Section 4. This section establishes that the new statute is prospective only and will not be applied to previous domestic violence convictions.

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

February 8, 2008

SUBJECT: May prior convictions that have occurred before the effective date of a new offense be used to aggravate the offense or a sentence imposed for the new offense? (Work Order No. 25-LS1236/E)

TO: Representative Lindsey Holmes

FROM: Gerald P. Luckhaupt 
Legislative Counsel

Question Presented: May prior convictions that have occurred before the effective date of a new offense be used to aggravate the offense or a sentence imposed for the new offense?

Answer: Yes. The ex post facto¹ clause of the United States and Alaska Constitutions² do not prevent the use of prior convictions to aggravate or enhance an offense, or the punishment for that offense.³ The use of prior convictions to aggravate or enhance an offense, or punishment for that offense, is not an attempt to recriminalize or further punish the prior criminal activity but to punish the current criminal conduct in a manner that accurately reflects the defendant's recidivism.

This issue was settled in Alaska in 1980 in *Danks v. State*, 619 P.2d 720 (Alaska 1980). In *Danks*, the defendant argued that he should not be subject to a mandatory three year revocation of his driver's license for his third drunk driving conviction. Danks argued that his prior convictions predated the statute that mandated the three year revocation and that application of the revocation period to his current offense would be an unconstitutional ex post facto law. The Alaska Supreme Court rejected Danks' argument:

¹ An ex post facto law is "[a] law passed after the occurrence of a fact or commission of an act, which retrospectively changes the legal consequences or relations of such act or deed." *Black's Law Dictionary*.

² The United States Constitution provides that the states may not enact "any ex post facto law." Art. I, § 10. The Constitution of the State of Alaska provides that "[n]o bill of attainder or ex post facto law shall be passed." Art. I, § 15.

³ Sometimes this argument is also framed in terms of double jeopardy, that being, that punishment is being exacted twice for the same conduct. Framing the argument in this manner has not resulted in any more success than an ex post facto approach.

Danks also argues that the three-year revocation provision of AS 28.15.210(c), if applied to him, would be unconstitutional as an ex post facto law, because his first two OMVI offenses took place prior to the 1974 enactment of section 210(c). But the United States Supreme Court has rejected a similar attack on application of a habitual offender statute, providing enhanced punishment for a fourth felony conviction, when one of the prior convictions was obtained before the statute was passed. In *Gryger v. Burke*, 334 U.S. 728, 92 L. Ed. 1683, 68 S. Ct. 1256 (1948), the Court rejected Gryger's ex post facto argument summarily:

Nor do we think the fact that one of the convictions that entered into the calculations by which petitioner became a fourth offender occurred before the Act was passed, makes the Act invalidly retroactive or subjects the petitioner to double jeopardy. The sentence as a fourth offender or habitual criminal is not to be viewed as either a new jeopardy or additional penalty for the earlier crimes. It is a stiffened penalty for the latest crime, which is considered to be an aggravated offense because a repetitive one.' (citations omitted).

334 U.S. at 732, 68 S. Ct. 1258, 92 L. Ed. at 1687. *Gryger* is dispositive of any claim based on the federal constitution, and we see no reason for us to interpret Alaska's constitutional provision differently.

Danks, supra, at 724 - 725. Since that decision the Alaska Court of Appeals has consistently ruled that the ex post facto provision of our Constitution is not implicated by a statute that enhances a crime or increases the punishment for a crime based upon the existence of prior offenses, regardless of whether those offenses have occurred before or after the statute was enacted. For example, in *Westby v. State*, 2006 Alas. App. LEXIS 150 (Alaska Ct. App. 2006), the court said:

Westby argues that *Danks* is distinguishable because it involved a license revocation proceeding, not a criminal conviction. But the reasoning in *Danks* applies equally in Westby's case, and we have previously relied on *Danks* to uphold a statute that increased a defendant's punishment for a crime based on convictions that were entered before the statute was enacted. Accordingly, we reject Westby's constitutional claim.

And, in *Lemon v. State*, 654 P.2d 277, 278 (Alaska Ct. App. 1982), the defendant argued that Alaska's former habitual criminal law was unconstitutional as applied to him because it allowed his sentence to be increased based upon two prior convictions that occurred before the law was enacted. The court rejected the defendant's argument stating:

Lemon argues that two of the convictions which the court relied upon in sentencing him as a habitual criminal occurred prior to enactment of the habitual criminal statute so that using them to enhance his sentence violated state and federal constitutional prohibitions against ex post facto laws and placing a defendant twice in jeopardy. This precise claim was rejected by the United States Supreme Court in *Gryger v. Burke*, 334 U.S. 728, 92 L. Ed. 1683, 68 S. Ct. 1256 (1948). Similar claims were rejected by our supreme court in *Danks v. State*, 619 P.2d 720 (Alaska 1980) and by this court in *Carter v. State*, 625 P.2d 313, 315 (Alaska App. 1981). We find no error.

And finally, in *Petersen v. State*, 930 P.2d 414, 433 - 434 (Alaska Ct. App. 1996), the Alaska Court of Appeals considered the situation where a prior offense is used as an element of a greater offense to increase the offense to a higher level of crime and the statute creating the greater offense was enacted after the prior offense was committed. The court quoted from *Gryger* and *Danks* and held that the same rule applies:

This is the accepted view on this matter, both as to increased punishments and to new offenses that include, as an element of the crime, proof that the defendant was previously convicted of an offense:

If the defendant commits crime A at a time when there is no habitual criminal statute, then such a statute is passed imposing increased punishment for a second offense, and then the defendant commits crime B, it is not within the ex post facto prohibition to apply the habitual criminal statute to crime B. No additional punishment is prescribed for crime A, but only for the new crime B, which was committed after the statute was passed. *Similarly, it is permissible to define a crime as limited to certain conduct engaged in by persons who have theretofore been convicted of some other offense and to apply the statute to one whose earlier offense and conviction predated the enactment of this [new] statute.*

Wayne R. LaFare and Austin W. Scott, Jr., *Substantive Criminal Law* (1986), § 2.4, Vol. 1, p. 139 (emphasis added by the court).

Petersen's case is slightly different: his offense became first-degree stalking, not strictly because of his prior criminal conviction, but because he was on probation from that prior conviction and because one of his conditions of probation forbade him from having contact with R.H. Compare AS 12.55.155(c)(20) (for purposes of presumptive sentencing, an offense is aggravated if "the defendant . . . was on parole or probation for another felony"). Nevertheless, the same rule applies: the legislature

Representative Lindsay Holmes

February 8, 2008

Page 4

can validly enhance the degree of a defendant's crime based on the defendant's pre-existing conditions of probation or based on a restraining order previously entered against the defendant. We therefore reject Petersen's contention that there was any illegality in convicting him of first-degree stalking because he violated a condition of probation imposed before the stalking law took effect. This did not constitute a retroactive application of the stalking law.

GPL:ljw

08-077.ljw

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


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

MEMORANDUM

January 30, 2008

SUBJECT: Constitutionality of Three Strikes Penalties for Domestic Violence Offenders under *Blakely v. Washington* (HB 307)
(Work Order No. 25-LS1236\E)

TO: Representative Lindsey Holmes

FROM: Gerald P. Luckhaupt
Legislative Counsel 

You have asked if sec. 2 of HB 307, which enhances penalties for misdemeanor domestic violence offenders¹ is constitutional under *Blakely v. Washington*, 540 U.S. 1174, 124 S. Ct. 1493, 158 L. Ed. 2d 75 (2004). In my opinion it is.

HB 307 provides that a person who commits a crime of domestic violence that is a misdemeanor crime against a person and the person has been previously convicted on two prior occasions of crimes involving domestic violence that are crimes against a person then the current offense becomes a class C felony and the person shall be sentenced for a class C felony. Obviously, to comply with *Blakely* a jury will need to find the necessary facts of the present offense, those being the various elements of the misdemeanor crime against a person with which the person is accused and the fact that the offense constituted a crime of domestic violence -- the victim of the offense was a household member with the accused.² We currently utilize a similar procedure for enhancing a felony sentence based upon the domestic violence aggravating factor.³ This

¹ A "three strikes" law for misdemeanor domestic violence offenses.

² Unless, of course, the accused waives having a jury decide these issues.

³ AS 12.55.155(e)(18) provides:

(c) The following factors shall be considered by the sentencing court if proven in accordance with this section, and may allow imposition of a sentence above the presumptive range set out in AS 12.55.125:

(18) the offense was a felony

(A) specified in AS 11.41 and was committed against a spouse, a former spouse, or a member of the social unit made up of those living together in the same dwelling as the defendant;

domestic violence aggravating factor must also be proved to the jury beyond a reasonable doubt.⁴ AS 12.55.155(f).

It is my opinion that proof of the existence of the two prior convictions in HB 307 can be done before a judge without a jury. *Blakely* does not require that proof of prior convictions be made by a jury but allows these decisions to be made by a judge.

Other than the fact of a prior conviction, any fact that increases the penalty for a crime beyond the prescribed statutory maximum must be submitted to a jury, and proved beyond a reasonable doubt.

Blakely, supra, 124 S. Ct. at 2536, quoting *Apprendi v. New Jersey*, 530 U.S. 466, (2000) (emphasis added).⁵ See, also, *State v. Hermann*, 140 P.3d 895 (Alaska App. 2006); *Milligrock, supra*.

It can be argued that the decision to be made with regard to prior convictions in HB 307 goes beyond a mere finding that the previous convictions exist but requires a finding that the previous convictions were crimes involving domestic violence and it is this finding that must go to the jury. It is still my opinion that *Blakely* does not mandate this result. Other jurisdictions have held that findings by a judge that prior convictions that are otherwise derivative of a defendant's criminal history are not implicated by *Blakely*. *Carson v. State*, 813 N.E. 2d 1187 (Ind. Ct. App. 2004). Furthermore, that these prior convictions are crimes involving domestic violence can be established before the court solely by the record of conviction in at least some cases by the fact of the defendant's prior conviction and by observing that the defendant received an enhanced minimum sentence under AS 12.55.135(c) or (g)⁶ or if the aggravating factor in AS 12.55.155(c)(18) was applied.⁷

⁴ The Alaska Court of Appeals has previously found, in at least two cases, that failure to submit this aggravating factor to the jury is subject to a harmless error analysis and, where the evidence was undisputed that the victim and defendant lived in the same household or were spouses, that failure to submit the issue to a jury was harmless beyond a reasonable doubt. See, *Milligrock v. State*, 118 P.3d 11 (Alaska App. 2005) (lived in same household); *Cloyd v. State*, ___ P.3d ___, 2007 Alas. App. LEXIS 44 (Alaska App. 2007) (spouses).

⁵ *Blakely* built upon the decision in *Apprendi*, which required that a jury decide beyond a reasonable doubt that a hate crime law that increased the statutory maximum for an underlying offense applied to the defendant's conduct.

⁶ Factors that increase a minimum sentence or require imposition of a mandatory minimum sentence do not have to be submitted to a jury under *Blakely*.

⁷ Certainly this will not cover all possible prior offenses but will cover the most common assault in the fourth degree for which a mandatory minimum sentence is imposed under

Finally, in *Shepard v. United States*, 544 U.S. 13, 161 L. Ed. 2d 205, 125 S. Ct. 1254 (2005), the U.S. Supreme Court considered whether a judge may determine under federal law if a defendant's prior conviction for burglary was for a violent crime.⁸ Under federal law only some burglary offenses would satisfy this requirement, but it was not clear from the charging documents or from the conviction itself that Shepard's conviction was of the required type as Shepard had pled guilty to a generic form of burglary and there was nothing in the record to show that Shepard had admitted the facts that made his conviction "violent" for purposes of an enhanced sentence under federal law in his present case. The Court found that this decision had to be made by the jury.

While the disputed fact here can be described as a fact about a prior conviction, it is too far removed from the conclusive significance of a prior judicial record, and too much like the findings subject to *Jones* and *Apprendi*, to say that *Almendarez-Torres* clearly authorizes a judge to resolve the dispute. The rule of reading statutes to avoid serious risks of unconstitutionality [citation omitted] therefore counsels us to limit the scope of judicial factfinding on the disputed generic character of a prior plea, just as *Taylor* constrained judicial findings about the generic implication of a jury's verdict.

Shepard, 544 U.S. at 25 - 26. In light of *Shepard*, even if my opinion that *Blakely* does not apply to findings concerning these prior offenses is incorrect it still does not follow that HB 307 is unconstitutional. There is nothing in HB 307 that prevents the jury from deciding if the victim of these prior offenses was a household member of the offender. There is no reason to think that the prosecutors and the courts will not be able apply this sentencing provision. Submitting the issue of whether the victim of the prior offenses was a household member with the accused would clearly be constitutional under *Blakely* and *Shepard* and while it may not be entirely beneficial to defendants, as the jury may hear evidence of their prior crimes which may not endear the jury to them, there is nothing in HB 307 that prevents the Department of Law and the Alaska Court System from applying HB 307 in this manner if that is what the Department of Law and the courts think that *Blakely* requires.^{9, 10}

AS 12.55.135. In other situations, if *Blakely* applies, the issue of whether these prior offenses were committed against a household member (and therefore are crimes involving domestic violence) could be submitted to the jury.

⁸ This finding increased the maximum sentence that may be imposed on the defendant.

⁹ That HB 307 does not set forth the specific procedures to be utilized with regard to these prior convictions also does not imply unconstitutionality, or that the bill is lacking in any way, as the legislature has also not set forth the procedure to be utilized for those aggravating factors that must be proven to a jury under AS 12.55.155(f). Instead the

A wholly different approach would be to create a different type of enhancement for a current domestic violence offense.¹¹ For example, we could provide that a person who commits a misdemeanor crime of domestic violence shall be sentenced as a class C felon if the person has two prior convictions for any of various felonies or misdemeanors that could constitute domestic violence and that are crimes against persons under AS 11.41.¹² Then we could set up a procedure to allow the judge to not sentence the person as a felon (and only impose the normal misdemeanor penalty for the offense) if the defendant shows the prior convictions were not crimes of domestic violence. There is authority for this approach that places the burden of proof on the defendant.

Apprendi, however, does not apply to the trial court's discretionary decision . . . to strike a prior conviction. . . . *Apprendi* carved out a "narrow exception" for sentence enhancements based on "the fact of a prior conviction." The *Almendarez-Torres* exception was not altered by *Blakely*. . . .

Because the sentence enhancement was based on Stevenson's four prior convictions, the calculation of his sentence falls within the *Almendarez-Torres* exception to *Apprendi*. Furthermore, because the trial judge's

legislature said that those factors "shall be presented to a trial jury under procedures set by the court." AS 12.55.155(f)(2).

¹⁰ The *Shepard* Court considered something similar to this and said:

The dissent charges that our decision may portend the extension of *Apprendi v. New Jersey*, 530 U.S. 466; 147 L. Ed. 2d 435, 120 S. Ct. 2348 (2000), to proof of prior convictions, a move which (if it should occur) "surely will do no favors for future defendants in *Shepard's* shoes." *Post*, at 38, 161 L. Ed. 2d, at 225. According to the dissent, the Government, bearing the burden of proving the defendant's prior burglaries to the jury, would then have the right to introduce evidence of those burglaries at trial, and so threaten severe prejudice to the defendant. It is up to the future to show whether the dissent is good prophesy, but the dissent's apprehensiveness can be resolved right now, for if the dissent turns out to be right that *Apprendi* will reach further, any defendant who feels that the risk of prejudice is too high can waive the right to have a jury decide questions about his prior convictions.

Shepard, 544 U.S. at 26.

¹¹ An enhancement that is a hybrid between the approach used in HB 323, the Governor's crime bill, and HB 307.

¹² Crimes involving domestic violence are listed in AS 18.66.990(3).

Representative Lindsey Holmes

January 30, 2008

Page 5

consideration of evidence not proved to the jury constituted a discretionary decision not to decrease Stevenson's sentence, *Apprendi* is inapposite. Finding a defendant to be outside the "spirit" of the Three Strikes law is a mitigating factor in sentencing, rather than a prerequisite to imposing an enhanced sentence. Thus, the trial judge's consideration of facts not proved to a jury did not offend Stevenson's constitutional rights under *Apprendi*. . . .

Stevenson v. Lewis, 2004 U.S. App. LEXIS 22511 (9th Cir. Oct. 28, 2004)

GPL:ljw
08-047.ljw



Every Home A Safe Home



DID YOU KNOW?

- ◊ One In every four women will experience domestic violence in her lifetime.¹ One In 33 men have experienced an attempted or completed rape.²
- ◊ An estimated 1.3 million women are victims of physical assault by an intimate partner each year.²
- ◊ The majority (73%) of family violence victims are female. Females were 84% of spousal abuse victims and 86% of abuse victims at the hands of a boyfriend.⁴
- ◊ The cost of intimate partner violence exceeds \$5.8 billion each year, \$4.1 billion of which is for direct medical and mental health services.³
- ◊ Boys who witness domestic violence are twice as likely to abuse their own partners and children when they become adults.⁶

CHALLENGES

- The extreme remoteness of many Alaskan communities, (including travelling to access services), remains the major obstacle to providing services to victims in these areas.
- Alaska's statistics on violence against women are among the highest in the nation. Local programs are in dire need of more funding to serve the sheer volume of victims that seek their services.

STATEMENTS FROM SERVICE PROVIDERS

"We are operating on a minimal basis. We have the minimum number of staff to get the job done. We have very little money for program supplies, travel, training, and outreach to the villages. We have been doing more for less for so long its hard to remember what it would look like to have enough."

-Advocate, Sitkans Against Family Violence⁹

"Increases wouldn't just be nice for programs, they are imperative for them to keep up with utility costs. We have diversified funding sources to the nth degree and overall still have fewer position [to provide victim services] than we did 3 years ago, 5 years ago, 8 years ago."

-Advocate, Tundra Women's Coalition⁹

DOMESTIC VIOLENCE AND SEXUAL ASSAULT IN ALASKA

- Almost 75% of Alaskans have experienced or know someone who has experienced domestic violence or sexual assault.⁷
- There were over 6,000 reported cases of domestic violence in Alaska in 2005.⁷
- 524 forcible rapes were reported in Alaska in 2005, representing almost 13% of all violent crimes.⁸
- The Alaska rape rate is 2.5 times the national average.⁷
- Child sexual assault in Alaska is almost six times the national average.⁷
- Alaska has the highest rate per capita of men murdering women.⁷
- Almost 30% of Alaskans were not able to access victim services or encourage others to do so because there were no services available in their area at the time.⁷
- Almost 90% of Alaskans would vote to increase funding for victim service programs, and over 90% would support increased penalties for domestic violence and sexual assault perpetrators.⁷

STATE RESOURCES

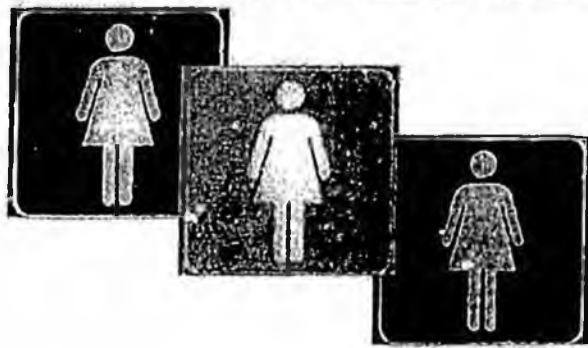
Alaska Network on Domestic Violence and Sexual Assault
www.andvsa.org

- ◊ The Network is a non-profit membership organization that is composed of 21 programs across Alaska. The 21 programs provide victim services for domestic violence and sexual assault, offender services, and crisis intervention services. The Network exists to promote communication and information sharing between programs across the state and to expose and eliminate interpersonal violence in the lives of Alaskan victims.

For more information or to get help, please visit
<http://www.andvsa.org/programs/programs.htm>
 to get local program and hotline information.

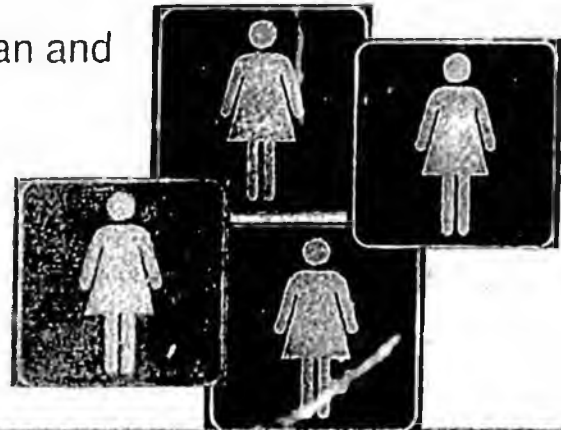
The National Domestic Violence Hotline at 1-800-799-SAFE
 The National Sexual Assault Hotline at 1-800-656-HOPE

American Indian and Alaska Native Women



More than 1 out of every 3 American Indian and Alaska Native women will be raped in her lifetime.¹

More than 3 out of every 4 American Indian and Alaska Native women will be physically assaulted in her lifetime.¹



When Men Murder Women¹⁰

Alaska ranks first in the nation with the highest homicide rate for female victims killed by a male perpetrator.¹

Number of Females Murdered by Males in Single Victim/Single Offender Homicides and Rates by State in 2003, Ranked by Rate

Ranking	State	Homicide Rate per 100,000
1	Alaska	2.87
2	Nevada	2.64
3 (tie)	Louisiana	2.42
3 (tie)	New Mexico	2.42
5	Tennessee	2.38

SOURCES

¹ Tjebke, P. & Thoennes, N. (2000). *Extent, Nature and Consequences of Intimate Partner Violence: Findings from the National Violence Against Women Survey*. National Institute of Justice and the Centers for Disease Control and Prevention.

² U.S. Department of Justice. (November 1998). "Prevalence, Incidence, and Consequences of Violence Against Women."

³ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁴ Bureau of Justice Statistics. (June, 2005). *Family Violence Statistics*. U.S. Department of Justice.

⁵ Centers for Disease Control and Prevention. (2003). *Costs of Intimate Partner Violence Against Women in the United States*. Atlanta, GA: National Centers for Injury Prevention and Control.

⁶ Strauss, Ulfes, & Smith. (1990). *Physical Violence in American Families: Risk Factors and Adaptations to Violence in 8145 Families*. Transaction Publishers.

⁷ Alaska Network on Domestic Violence and Sexual Assault. (2006). 2006 Annual Report. Working in Alaska Committee for Safety, Justice, Advocacy and Education, Violence Prevention. Juneau, Alaska.

⁸ Alaska Department of Public Safety. (2005). *Crime Reported in Alaska, 2005: Uniform Crime Reporting Program*. Accessed November 29, 2007 at http://www.dps.state.ak.us/CRIM/UCR_2005.pdf

⁹ Alaska Network on Domestic Violence and Sexual Assault. (December 2006). *Alaska Program Directors Report How They Are Coping With Inadequate Funding*. Accessed November 29, 2007 at <http://www.alnadv.org/pdfs/December%202006%20Quotas%20Program%20Directors.pdf>

¹⁰ Violence Policy Center. (September 2001). *When Men Murder Women*. Accessed November 29, 2007 at <http://www.vpc.org/studies/wmmw2001.pdf>

NATIONAL COALITION AGAINST DOMESTIC VIOLENCE



The Public Policy Office of the National Coalition Against Domestic Violence (NCADV) is a national leader in the effort to create and influence Federal legislation that positively affects the lives of domestic violence victims and children. We work closely with advocates at the local, state and national level to identify the issues facing domestic violence victims, their children and the people who serve them and to develop a legislative agenda to address these issues. NCADV welcomes you to join us in our effort to end domestic violence.

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355



Business Manager

Joseph Young
Anchorage

Board of Directors

Angella Long, President
Wasilla

John Lucking, Vice President
Soldotna

Leo Brandlen, Past President
Anchorage

Kim Wannamaker, Member
Kenai
Pres. Kenai Chapter

John Trench, Member
Anchorage
Pres. Anchorage Chapter

John Jansen, Member
Mat-Su
Pres. Mat-Su Chapter

Jim Janke, Member
Fairbanks
Pres. Fairbank North Chapter

Dan Boone, Member
Juneau
Pres. Capital City Chapter

Natalie White, Member
Ketchikan
Pres. First City Chapter

Matt Bilzen, Member
Unalaska
Pres. Aleutian Islands Chapter

Kelly Showler, Member
Wrangell
Pres. Wrangell Chapter

Scott McCune, Member
Valdez
Pres. Port of Valdez Chapter

January 24, 2008

Representative Jay Ramras
House Judiciary Committee Chair
State Capitol
Juneau AK 99801-1182

Dear Representative Ramras:

On behalf of the Alaska Peace Officers Association (APOA), I would like to thank you for considering HB 307, an act relating to penalizing certain misdemeanor domestic violence offenses as felonies.

The APOA State Board's Legislative Committee recently reviewed this proposed legislation and decided to unanimously support this bill.

We thank you for addressing this issue. Please contact the APOA office in Anchorage at 277-0515, if there is anything our organization can do to assist in the passage of this bill.

Sincerely,

Angella Long
State President



State of Alaska
Department of Public Safety
Council on Domestic Violence & Sexual Assault

Sarah Palin, Governor
Walter Monegan, Commissioner

February 8, 2008

Representative Lindsey Holmes
State Capitol, Room 405
Juneau, Alaska 99801-1182

Subject: Support for HB 307

Dear Representative Holmes and HB 307 Sponsors:

Thank you for introducing HB307, Domestic Violence Offenses, a bill that will hold the most serious repeat domestic violence offenders accountable for their actions.

We must turn the tide of Alaska's chronically high rates of interpersonal violence. To accomplish that, victims must be kept safe and perpetrators must know that they will be appropriately punished for their actions. We believe the legislation you propose sends a strong message that our state will not tolerate the levels of domestic violence that currently exist.

This bill's welcome message is that "serial battering" is a serious crime that Alaska will not accept. When repeat offenders are held to a higher standard of accountability, the message to both victims and perpetrators is that the recurrence of harm to an individual matters. We expect the classification of such behavior as a felony to act as a deterrent and, if not, then it would provide a heavier consequence to include prison time and oversight by Department of Corrections upon release.

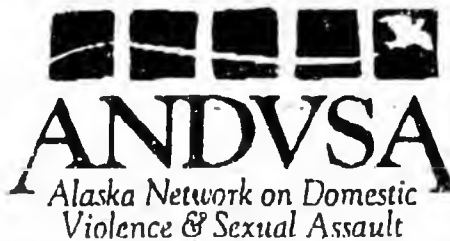
As you probably know, as of 2005, at least 26 states have also taken a stand on this issue by enacting some type of enhanced penalty for repeat domestic violence offenders. We encourage Alaska to join them and appreciate the opportunity to support this legislation.

Sincerely,

Chris Ashenbrenner
Executive Director

"Public Safety through Public Service"

Juneau Office
130 Seward St #209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

February 20, 2008

Representative Lindsey Holmes
Members of House Finance

Dear Rep. Holmes and members of HFIN Committee:

The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) supports the intention of this legislation 1000%. At first glance it would seem that this bill is something ANDVSA would wholeheartedly support because the criminalization of such behavior sends the message that domestic violence is a serious crime and one that is not easily tolerated in Alaska. Moreover, the bill targets repeat offenders with multiple convictions and those who have multiple victims. However, we have a few concerns we'd like addressed/discussed before passage of such a bill.

As was made clear during the CJS Summit, Senator French stated that we don't have all the information we need to make informed decisions on juveniles being referred to the criminal justice system, and therefore we need an improved method of tracking people who progress through the system. We don't know how many crimes of domestic violence are charged in the first place; we know convictions. We don't know how many are plead down to disorderly conduct or 4th degree assault. If we are not currently charging/convicting domestic violence, and we then increase the penalty to a felony, are we merely giving perpetrators more to bargain with? Perpetrators have a knack for using the criminal justice system against victims. We want some assurances that the system can accommodate this law, and we want to make sure we have the tools to judge its efficacy. If perpetrators are not being convicted of the crimes they are charged with, how are we determine efficacy?

We are also concerned about how this legislation will affect victims who are arrested, especially in rural Alaska where anecdotal evidence suggests that women who are arrested are unlikely to contest charges because they want to get back home and be reunited with their children or who don't want to cause 'any more problems' to the perpetrator. National research does suggest that battered women are more likely to accept plea bargains in order to be with their children ("The Impact of Arrests and Convictions on Battered Women" *National Clearinghouse for the Defense of Battered Women, 2006*). In House Judiciary we heard the testimony of a father on behalf of his daughter who saw first-hand how her boyfriend manipulated the system into getting her arrested.

Having said all of the above, again, we support the intent of this bill. We also urge you to continue to ask questions which address these unintended consequences to victims who must navigate our court system in areas of Alaska where it's not always beneficial for them to do so. We want our laws to reflect our values - that if you continue to commit a crime of domestic violence, there will be dire consequences. I want to thank Representative Holmes and all of the other sponsors for their commitment to protecting victims. Let's make sure that our good intentions don't re-victimize them.

Sincerely,

Peggy Hiron
Executive Director, ANDVSA

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE
Fairbanks IAC Homer SPHH Juneau AWARE Kenai LiveShore Center Ketchikan WISH Kodiak KWRC
Kotzebue MFCC Nome HSWG Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV