

HB

307

Alaska State Legislature House Judiciary Committee

Representative Jay Ramras
Chairman
(907) 465-3004
Fax: (907) 465-2070
Representative_Ramras@legis.state.ak.us

1292 Sadler Way, Suite 324
Fairbanks, Alaska 99701



Committee Members
Representative Nancy Dahlstrom
Vice Chairman
Representative Bob Lynn
Representative Carl Gatto
Representative Bob Herron
Representative Max Gruenberg
Representative Lindsey Holmes

State Capitol, Room 120
Juneau, Alaska 99801-1182

To: Representative Nancy Dahlstrom, Chair
House Rules Committee

From: Representative Jay Ramras, Chair
House Judiciary Committee

Date: January 27, 2010

Re: Referral File for HB307

Attached please find the referral file for HB307

Representative_Jay_Ramras@legis.state.ak.us



Representative Lindsey Holmes

House Bill 307 Sponsor Statement

“An Act relating to sexual assault protective orders.”

AS 18.65.850 authorizes the courts to grant protective orders in cases of stalking and sexual assault. This statute has been amended twice in recent sessions. In 2001, HB 1 extended protections to victims of stalking by persons other than their domestic partner. In 2006, SB 54 added sexual assault to the statute. While the clear intent of SB 54 was to exactly duplicate the effects of HB 1, namely, to grant jurisdiction to magistrate and district court judges to issue these orders, SB 54 did not explicitly amend AS 22.15.100 to achieve this.

Consequently, certain magistrate and district court judges have read the statute to mean that they do not have jurisdiction to issue protective orders in cases of sexual assault. This mirrors the situation prior to HB 1, in which claimants brought petitions that clearly required a protective order, but judges were unable to offer assistance.

This bill would amend AS 22.15.100 to explicitly grant magistrate and district court judges jurisdiction to grant protective orders in cases of sexual assault, in addition to stalking. This change is especially important given that many rural communities in Alaska only have access to magistrate or district courts.

Please join me in repairing this small gap in the statute and ensuring that all victims of sexual assault in our state are able to gain protection from their attackers.

**Representative
Lindsey Holmes**

Capitol Room 405
465-4919
465-2137 fax



MEMORANDUM

Date: 20 January 2010

To: House Judiciary Committee members

From: Rep. Lindsey Holmes

RE: Sectional analysis of HB 307

The following is a sectional analysis of HB 307. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1: Amends AS 20.15.100 to give magistrate and district court judges jurisdiction to issue protective orders in cases of sexual assault under AS 18.65.850.

**Representative
Lindsey Holmes**

Capitol Room 405
465-4919
465-2137 fax



MEMORANDUM

Date: 20 January 2010

To: House Judiciary Committee

From: Rep. Lindsey Holmes

RE: Supporting materials for HB 307

The following are supplemental materials associated with HB 307, specifically regarding the intent behind SB 54, the act that created sexual assault protective orders in 2006.

Bill Edwards

From: Bill Edwards
Sent: Tuesday, January 19, 2010 10:34 AM
To: 'Gayle_Keller@legis.state.ak.us'
Subject: SB 54 from 2006

Hi Gayle,

I am writing to both introduce myself and ask you guys a question. I am a new staffer for Rep. Holmes this session.

Sen. Dyson sponsored legislation in 2006 relating to protective orders, namely amending AS18.65.850 to include sexual assault as well as stalking as cause for granting a protective order.

It has come to our attention that there are some magistrate / district court judges who are reading AS 20.15.100 to mean that they have jurisdiction to grant protective orders for stalking but NOT for sexual assault. Our understanding is that this has resulted in women in rural communities having to go to a superior court judge, which is obviously quite difficult in a lot of places. We have filed a bill to amend AS 20.15.100 to explicitly roll sexual assault protective orders into magistrate / district court jurisdiction. It looks like this was just a minor oversight in the 2006 bill, but I wanted to give you guys a heads up and see if you could confirm that the intent of SB 54 was in fact to grant district courts the ability to grant these orders.

Thanks,

Bill Edwards

Bill Edwards

From: Chuck Kopp
Sent: Tuesday, January 19, 2010 9:53 PM
To: Bill Edwards
Subject: SB 54 from 2006

Hello Bill,

Welcome to the Legislature. You and I are both in the "freshman" legislative aide category. It is going to be a great experience. To the point of your inquiry – Yes, the intent of the 2006 bill was to grant district courts the jurisdiction to issue stalking and sexual assault protective orders. Thanks for taking the initiative on amending AS 20.15.100 to make this clear.

Best regards,

Chuck

Chuck Kopp
Chief of Staff
Senator Fred Dyson
(907) 694-6683 (Eagle River)
(907) 465-2199 (Juneau)

Excerpts from minutes on SB 54, 2005/2006.

Sen. Dyson Feb 17, 2005:

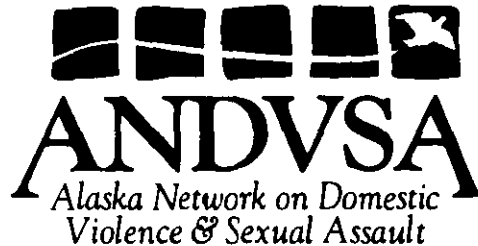
SENATOR FRED DYSON, prime sponsor, explained that under current law a victim may get a restraining order for domestic violence and stalking, but it doesn't mention restraining orders if you've been a victim of sexual assault. SB 54 adds sexual assault to the list that a judge or magistrate may draw from to grant a restraining order. Although some judges do grant restraining orders to victims of sexual assault it's not clear in statute and some have refused to do so. SB 54 would make it clear to judges that they have that authority.

He noted that in drafting the bill, Legislative Legal elected to replicate the language from the domestic violence restraining orders. According to the Department of Law, it would have been better to have replicated the language in existing statutes related to stalking. Because of that opinion, he asked the committee to hold the bill to provide time to draft a committee substitute (CS).

SERGEANT DAVE PARKER, special victims unit supervisor, Anchorage Police Department, said SB 54 would help the police protect victims of sexual assault. The problem has been that judges don't have clear direction. He described a case in which a neighbor raped a woman. When a detective took the victim to get a protective order the judge wouldn't issue the order because he said rape isn't a consensual sexual act.

SERGEANT PARKER emphasized no victim should be re-victimized with unwanted contact with the perpetrator and SB 54 will give sexual assault victims the same legal protection that domestic violence and stalking victims have now.

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



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

January 26, 2010

Representative Lindsey Holmes
State Capitol, Room 405
Juneau, AK 99801

Dear Representative Holmes:

On behalf the Network's 18 member programs that provide services to victims and survivors of domestic violence and sexual assault, we thank you for sponsoring HB 307.

HB 307 will repair a gap created when protections were added for victims of sexual assault. As you know, in 2006, SB 54 added protective orders to the tools available to protect sexual assault victims. Unfortunately, by mere oversight, AS 20.15.100 was not amended to specifically grant jurisdiction to district court judges and magistrates to issue these orders.

We know from anecdotal information that in many rural Alaska communities, this has led to victims of sexual assault not receiving the full protections available to them because district court judges and magistrates in these communities do not feel that they have the jurisdiction to issue these orders. Further, the lack of protective orders in these situations often leaves victims of these crimes vulnerable to coercion by perpetrators. This gap filling bill will provide protections to victims of sexual assault, which was the intent of the legislature in passing SB 54 in 2006.

Sincerely,



Peggy Brown, Executive Director

cc: Lisa Mariotti, Policy Director

Member Programs

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

FISCAL NOTE

STATE OF ALASKA
2010 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 307
 () Publish Date: _____

Identifier (file name): HB307-LAW-CRIM-1-25-10 Dept. Affected: Law
 Title: An Act relating to sexual assault protective orders. RDU: CRIMINAL
 Component: Criminal Justice Litigation

Sponsor: Representative(s) Holmes, Fairclough, Millett, Munoz, P. Wilson, Dahlstrom, T. Wilson, Cissna, Gardner, Herron, Buch
 Requester: Representative(s) Holmes, Fairclough, Millett, Munoz, P. Wilson, Dahlstrom, T. Wilson, Cissna, Gardner, Herron, Buch Component Number: 2202

Expenditures/Revenues (Thousands of Dollars)

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

	Appropriation Required	Information						
		FY 2011	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2016
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								
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CHANGE IN REVENUES ()								
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2010) cost: _____

POSITIONS

Full-time								
Part-time								
Temporary								

ANALYSIS: (Attach a separate page if necessary)

This bill provides each district judge and magistrate the power to issue a protective order in applications for a sexual assault protective order involving sexual assault. This bill would have no financial impact to the Department of Law.

Prepared by: Eileen Donahue, Division Operations Manager
 Division: Administrative Services
 Approved by: Daniel S. Sullivan, Attorney General
Department of Law

Phone 465-5427
 Date/Time 1/25/10 12:00 AM
 Date 1/25/2010

