

ALASKA LEGISLATURE

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HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

1 release, the geographic area in which the prisoner will reside, and any other
2 information concerning conditions of parole that may affect the victim. The victim
3 shall also be informed of any changes in the conditions of parole that may affect the
4 victim. The board shall send the notice required to the last known address of the
5 victim. A person may not bring a civil action for damages for a failure to comply
6 with the provisions of this subsection.

7 * Sec. 52. AS 33.16.150 is amended by adding a new subsection to read:

8 (f) In addition to other conditions of parole imposed under this section, the
9 board may impose as a condition of special medical, discretionary, or mandatory parole
10 for a prisoner serving a term for a crime involving domestic violence (1) any of the
11 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at
12 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of
13 the board, a program for the rehabilitation of perpetrators of domestic violence that
14 meets the standards set by the department under AS 44.28.020(b); and (3) any other
15 condition necessary to rehabilitate the prisoner. The board shall establish procedures
16 for the exchange of information concerning the parolee with the victim and for
17 responding to reports of nonattendance or noncompliance by the parolee with
18 conditions imposed under this subsection.

19 * Sec. 53. AS 33.16.220(a) is amended to read:

20 (a) The board may revoke parole if the parolee

21 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or

22 (f); or

23 (2) has violated an order of the court to participate in or comply with
24 the treatment plan of a rehabilitation program under AS 12.55.015(a)(10).

25 * Sec. 54. AS 33.16.220(c) is amended to read:

26 (c) In determining whether a parole violator should be released pending a final
27 revocation hearing, the board or its designee shall consider

28 (1) the likelihood of the parolee's appearance at a final revocation
29 hearing;

30 (2) the seriousness of the alleged violation;

31 (3) whether the parolee presents a danger to the community; [AND]

1 (4) whether the parolee is likely to further violate conditions of parole;
2 and

3 (5) whether the parolee is on parole for a crime involving domestic
4 violence; if the violation of the condition of parole involved an act of domestic
5 violence, the parolee may not be released pending the final revocation hearing.

6 * Sec. 55. AS 33.16.900 is amended by adding a new paragraph to read:

7 (13) "crime involving domestic violence" and "domestic violence" have
8 the meanings given in AS 18.66.990.

9 * Sec. 56. AS 33.20.080(b) is amended to read:

10 (b) If requested by the victim of a crime against a person, a crime involving
11 domestic violence, or arson in the first degree, the board shall send notice of an
12 application for executive clemency submitted by the state prisoner who was convicted
13 of that crime. The victim may comment in writing to the board on the application for
14 executive clemency.

15 * Sec. 57. AS 33.20.080(d) is amended by adding a new paragraph to read:

16 (3) "crime involving domestic violence" has the meaning given in
17 AS 18.66.990.

18 * Sec. 58. AS 33.30.013(b) is amended to read:

19 (b) The commissioner is required to give notice of a change in the status of an
20 offender under this section only if the victim has requested notice of the change,
21 except that the commissioner is required to give notice, mailed to the last known
22 address of the victim, in every case of a crime involving domestic violence.

23 * Sec. 59. AS 33.30.101 is amended by adding a new subsection to read:

24 (c) The commissioner may release on furlough a prisoner convicted of a crime
25 involving domestic violence only under conditions that would protect the victim of
26 domestic violence or other household member.

27 * Sec. 60. AS 33.30.111(f) is amended to read:

28 (f) Except as provided in (g) of this section, if [IF] the commissioner
29 considers a prisoner convicted of a crime against a person or arson in the first degree
30 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the
31 commissioner shall send notice of intent to consider the prisoner for a prerelease

1 furlough to the victim. The victim may comment in writing on the commissioner's
2 intent to release the prisoner on a prerelease furlough status. The commissioner shall
3 consider the victim's comments before making a final decision to release a prisoner
4 on a prerelease furlough status. The commissioner shall make a reasonable effort to
5 notify the victim of an intent to release the prisoner on a prerelease furlough. The
6 notice must contain the expected date of the prisoner's release, the geographic area in
7 which the prisoner will reside, and other pertinent information concerning the
8 prisoner's release that may affect the victim.

9 * **Sec. 61.** AS 33.30.111 is amended by adding a new subsection to read:

10 (g) If the commissioner considers a prisoner convicted of a crime involving
11 domestic violence for a prerelease furlough, the commissioner shall send notice of
12 intent to consider the prisoner for prerelease furlough to the last known address of the
13 victim. The victim may comment in writing on the commissioner's intention to release
14 the prisoner on a prerelease furlough. The commissioner shall consider the victim's
15 comments, if any, before making a final decision to release the prisoner on a prerelease
16 furlough. The commissioner shall make a reasonable effort to notify the victim of any
17 decision to release the prisoner on the prerelease furlough. The notice must include
18 the expected date of the furlough and any other information concerning the furlough
19 that may affect the victim. A person may not bring a civil action for damages for a
20 failure to comply with the provisions of this subsection.

21 * **Sec. 62.** AS 33.30.901 is amended by adding a new paragraph to read:

22 (15) "crime involving domestic violence" has the meaning given in
23 AS 18.66.990.

24 * **Sec. 63.** AS 43.23.065(b) is amended to read:

25 (b) An exemption is not available under this section for permanent fund
26 dividends taken to satisfy

27 (1) child support obligations required by court order or decision of the
28 child support enforcement agency under AS 25.27.140 - 25.27.220;

29 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,
30 or AS 47.10.080(b)(4);

31 (3) claims on defaulted scholarship loans under AS 43.23.067;

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- (4) court ordered fines;
- (5) writs of execution under AS 09.35 of a judgment that is entered
 - (A) against a minor in a civil action to recover damages;
 - (B) under AS 34.50.020 against the parent, parents, or legal guardian of an unemancipated minor;
- (6) a debt owed by an eligible individual to an agency of the state, unless the debt is contested and an appeal is pending, or the time limit for filing an appeal has not expired;
- (7) a debt owed to a person for a program for the rehabilitation of perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).**

* Sec. 64. AS 44.21.410(a)(5) is amended to read:

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); **in cases involving appointments under AS 18.66.100(a) in petitions for protective orders on behalf of a minor;** and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests;

* Sec. 65. AS 44.28.020 is amended by adding a new subsection to read:

(b) The department shall, with the approval of the Council on Domestic Violence and Sexual Assault, adopt standards, by regulation, for rehabilitation programs for perpetrators of domestic violence as defined in AS 18.66.990. For purposes of AS 12.55.101, AS 18.66.100(c), and AS 33.16.150(f), the department shall determine whether a program meets the standards.

* Sec. 66. AS 47.17.020(a) is amended to read:

(a) The following persons who, in the performance of their occupational duties, have reasonable cause to suspect that a child has suffered harm as a result of child

1 abuse or neglect shall immediately report the harm to the nearest office of the
2 department:

- 3 (1) practitioners of the healing arts;
- 4 (2) school teachers and school administrative staff members of public
5 and private schools;
- 6 (3) social workers;
- 7 (4) peace officers, and officers of the Department of Corrections;
- 8 (5) administrative officers of institutions;
- 9 (6) child care providers;
- 10 (7) paid employees of domestic violence and sexual assault programs,
11 and crisis intervention and prevention programs as defined in AS 18.66.990
12 [AS 18.66.900];
- 13 (8) paid employees of an organization that provides counseling or
14 treatment to individuals seeking to control their use of drugs or alcohol.

15 * Sec. 67. AS 47.17 is amended by adding a new section to read:

16 Sec. 47.17.035. DUTIES OF DEPARTMENT IN DOMESTIC VIOLENCE
17 CASES. (a) In consultation with the Council on Domestic Violence and Sexual
18 Assault, the department shall develop written procedures for screening reports of harm
19 for abuse and neglect of a child to assess whether there is domestic violence occurring
20 within the family. The procedures must include the following factors:

21 (1) inquiry concerning the criminal records of the parents or of the
22 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the
23 child; and

24 (2) inquiry concerning the existence of protective orders issued or filed
25 under AS 18.66.100 - 18.66.180 involving either parent as a petitioner or respondent.

26 (b) If the department determines in an investigation of abuse or neglect of a
27 child that

28 (1) the child is in danger because of domestic violence or that the child
29 needs protection as a result of the presence of domestic violence in the family, the
30 department shall take appropriate steps for the protection of the child;

31 (2) a person is the victim of domestic violence, the department shall

1 provide the victim with a written notice of the rights of and services available to
2 victims of domestic violence that is substantially similar to the notice provided to
3 victims of domestic violence under AS 18.65.520.

4 (c) For purposes of obtaining access to information needed to conduct the
5 inquiries required by (a)(1) and (2) of this section, the department is a criminal justice
6 agency conducting a criminal justice activity.

7 (d) A person may not bring a civil action for damages for a failure to comply
8 with the provisions of this section.

9 (e) In this section,

10 (1) "criminal justice activity" has the meaning given in AS 12.62.900;

11 (2) "criminal justice agency" has the meaning given in AS 12.62.900;

12 (3) "domestic violence" has the meaning given in AS 18.66.990.

13 * Sec. 68. Rule 3, Alaska Rules of Civil Procedure, is amended by adding a new
14 subsection to read:

15 (h) A petition or request for a protective order on domestic violence under
16 AS 18.66 may be filed in the judicial district

17 (1) where the petitioner currently or temporarily resides;

18 (2) where the respondent resides; or

19 (3) where the domestic violence occurred.

20 * Sec. 69. Rule 100(a), Alaska Rules of Civil Procedure, is amended to read:

21 (a) Application. At any time after a complaint is filed, a party may file a
22 motion with the court requesting mediation for the purpose of achieving a mutually
23 agreeable settlement. The motion must address how the mediation should be
24 conducted as specified in paragraph (b), including the names of any acceptable
25 mediators. **If domestic violence has occurred between the parties and mediation**
26 **is requested in a matter covered by AS 25, mediation may only be ordered when**
27 **permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered**
28 **by AS 25, the** [THE] court may order mediation in response to such a motion, or on
29 its own motion, whenever it determines that mediation may result in an equitable
30 settlement. In making this determination, the court **shall** [MAY] consider whether
31 there is a history of domestic violence between the parties which could be expected

1 to affect the fairness of the mediation process or the physical safety of the domestic
2 violence victim. Mediation may not be ordered between the parties to, or in, a case
3 filed under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR .020 AND CONDUCT
4 WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES
5 MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].

6 * Sec. 70. Rule 505(a)(2), Alaska Rules of Evidence, is amended to read:

7 (2) Exceptions. There is no privilege under this subdivision:

8 (A) In a civil proceeding brought by or on behalf of one spouse
9 against the other spouse; or

10 (B) In a proceeding to commit or otherwise place his spouse,
11 the property of his spouse, or both the spouse and the property of the spouse
12 under the control of another because of the alleged mental or physical condition
13 of the spouse; or

14 (C) In a proceeding brought by or on behalf of a spouse to
15 establish his competence; or

16 (D) In a proceeding in which one spouse is charged with:

17 (i) A crime against the person or the property of the
18 other spouse or of a child of either, whether such crime was committed
19 before or during marriage.

20 (ii) Bigamy, incest, adultery, pimping, or prostitution.

21 (iii) A crime related to abandonment of a child or
22 nonsupport of a spouse or child.

23 (iv) A crime prior to the marriage.

24 (v) A crime involving domestic violence as defined in

25 AS 18.66.990.

26 (E) In a proceeding involving custody of a child.

27 (F) Evidence derived from or related to a business relationship
28 involving the spouses.

29 * Sec. 71. AS 11.56.740(a)(2) is repealed.

30 * Sec. 72. AS 12.25.030(d); AS 12.61.900(1); AS 18.65.520(c); AS 18.66.900;
31 AS 25.35.010, 25.35.020, 25.35.030, 25.35.040, 25.35.050, and 25.35.200 are repealed.

1 * **Sec. 73. REVISOR'S CHANGES.** The revisor of statutes is requested to remove
2 AS 25.35.100 - 25.35.150 from AS 25 and place these provisions in AS 18, renumbered as
3 AS 18.66.200 - 18.66.250, and as a whole described as "Article 3. Confidential
4 Communications." The revisor is also requested to revise all statutory cross-references to
5 these statutes.

6 * **Sec. 74. TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.**
7 A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on
8 the effective date of sec. 72 of this Act remains in effect until it expires under the terms of
9 the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs
10 earlier.

11 * **Sec. 75. TRANSITION: REGULATIONS.** Notwithstanding secs. 81, 83, and 84 of this
12 Act, the state agencies affected by this Act may proceed to adopt regulations necessary to
13 implement changes affecting the state agency that are enacted by this Act. The regulations
14 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date
15 of the changes in law in this Act.

16 * **Sec. 76.** AS 18.66.150(d) and 18.66.160(c), added by sec. 33 of this Act, have the effect
17 of amending Rules 9(b)(11), 9(c)(3), and 9(e)(6), Alaska Rules of Administration, by
18 eliminating filing fees and service of process fees in domestic violence actions for protective
19 orders.

20 * **Sec. 77.** AS 18.66.160, added by sec. 33 of this Act, has the effect of amending Rule 4,
21 Alaska Rules of Civil Procedure, relating to service of process in domestic violence actions
22 for protective orders.

23 * **Sec. 78.** AS 18.66.110 - 18.66.130, added by sec. 33 of this Act, have the effect of
24 amending Rule 65(b) - (d), Alaska Rules of Civil Procedure, relating to temporary restraining
25 orders, the method of obtaining those orders, and the timing of those orders.

26 * **Sec. 79.** AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule
27 613, Alaska Rules of Evidence, relating to impeachment of witnesses.

28 * **Sec. 80.** Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76
29 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
30 Constitution of the State of Alaska.

31 * **Sec. 81.** If secs. 68 - 70 and 76 - 79 of this Act take effect under sec. 80 of this Act,

1 they take effect July 1, 1996.

2 * Sec. 82. Section 75 of this Act takes effect immediately under AS 01.10.070(c).

3 * Sec. 83. Except as provided in secs. 81, 82, and 84 of this Act, this Act takes effect
4 July 1, 1996.

5 * Sec. 84. Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of
6 this Act.

**DOMESTIC VIOLENCE PREVENTION AND
VICTIM PROTECTION ACT OF 1996**

Proposed SCS HB 314 (Jud) -- 4/13/96 draft

SECTIONAL ANALYSIS

Section 1 names the Act.

Section 2 adds crime involving domestic violence to the definition of serious criminal offense in AS 09.60.070(c). This allows a person to recover full attorney fees in a cause of action arising from the commission of a crime involving domestic violence.

Section 3 is a conforming amendment. It amends stalking in the first degree so that it refers to protective orders issued under AS 18.66 and former AS 25.35.

Section 4 is a conforming amendment. It changes the definition of "enter or remain unlawfully" in the burglary and criminal trespass statutes to refer to protective orders under AS 18.66 and former AS 25.35.

Section 5 rewrites the crime of violating a domestic violence protective order. It is an A misdemeanor to knowingly violate a condition of a protective order which

- 1) prohibits the respondent from committing further domestic violence;
- 2) prohibits the respondent from communicating with the victim;
- 3) removes the respondent from the home of the victim;
- 4) orders the respondent to stay away from the home, school, job, or other place where the victim may be found;
- 5) prohibits the respondent from entering a vehicle with the victim;
- 6) prohibits the respondent from possessing a deadly weapon; or
- 7) requires the respondent to surrender a firearm.

In current law a person commits the crime of violating a domestic violence restraining order only if the person communicates with another after being ordered not to, after a court has made a factual finding that the person had committed domestic violence.

Section 6 clarifies that it is not a defense that a respondent, if ordered not to communicate with the victim or be present at the residence or other place, did so at the invitation of the victim.

Section 7 is a conforming amendment. It amends third degree misconduct involving weapons to include criminal trespass by violating a protective order under AS 18.66 and former AS 25.35.

Section 8 amends AS 12.25.030, grounds for arrest without a warrant, to include the mandatory arrest with probable cause requirement in domestic violence cases (within 12 hours of offense) in the Act, and discretionary arrest without a warrant in other domestic violence situations. A more complete explanation of the arrest authority is found in section 29.

Section 9 adds crimes involving domestic violence to the exceptions to the general rule that a peace officer may issue a citation for a misdemeanor or violation rather than arrest the offender. The Act requires a law enforcement officer to arrest a person when there is probable cause to believe the person has committed domestic violence within the previous 12 hours, with certain exceptions. This is explained more fully in section 29.

Section 10 is a conforming, technical amendment to the existing statute setting conditions of release before trial in cases involving stalking that is necessitated by the amendment contained in section 11.

Section 11 addresses release before trial, pending sentencing, and pending appeal of a person charged or convicted of a domestic violence offense. It requires the court to consider the safety of the victim and the victim's family in addition to the safety of the public before releasing the defendant. It provides additional conditions of release that may be imposed on a defendant in a domestic violence case; for example, no contact with the victim. It requires the prosecuting or arresting authority to make reasonable efforts to notify the victim when a domestic violence defendant is released from custody. Section 11 also requires a person who is arrested for domestic violence to appear personally or telephonically before a judicial officer before being released.

Section 12 requires, as part of a sentence following a conviction for a crime involving domestic violence, that deadly weapons used or possessed by a defendant during the commission of a crime involving domestic violence be forfeited.

Section 13 adds a new section to AS 12.55 (sentencing) to require the court to consider the safety of the victim before ordering probation for a domestic violence offender. It also provides additional conditions of probation in domestic violence cases, including the condition of a rehabilitation program for the offender if one is available where

the offender resides. Treatment must be paid for by the defendant if the defendant is not in custody.

Section 14 is a conforming amendment. The mandatory 20 day term of imprisonment for conviction of assault in the fourth degree in violation of a protective order is applied to orders under AS 18.66 as well as former AS 25.35.

Section 15 is a conforming, definitional amendment.

Section 16 makes a conforming amendment to AS 12.61 (Victims' Rights), and adds the requirement that prosecutors make a reasonable effort to confer with all victims of domestic violence before entering into a plea agreement in a case.

Section 17 adds domestic violence to the offenses (others are crimes against the person, burglary and criminal trespass, terroristic threatening, misconduct involving weapons in 1st through 4th degrees) where the court may decide that the threat to the victim prohibits the defendant, when representing him or herself, from obtaining the address and telephone number of the victim.

Section 18 clarifies that the duty of defendants and their representatives to clearly identify themselves to victims extends to victims of offense with which the defendant is not yet, but could be, charged.

Section 19 provides that defendants and their representatives who want to tape record statements of victims and witnesses, must obtain the consent of the victim or witness before recording the statement. It also allows victims and witnesses to obtain a copy of the statement that was taken.

Section 20 provides that defendants charged with sex crimes, and their representatives, may not contact a victim or witness if the victim or witness informs the defendant in writing that the victim or witness does not wish to be contacted by the defense. If a victim or witness of a sex crime does consent to contact, written or tape recorded authorization for taking a statement must be obtained from the victim or witness. The section also provides that statements taken from a victim or witness in violation of the statute are presumed to be inadmissible, and provides a method for the defendant to overcome the presumption of inadmissibility.

Section 21 sets out definitions that apply to sections 18-20.

Section 22 amends the definition of serious offense in the Criminal Justice Information Systems Security and Privacy Act by adding crimes involving domestic violence. This has the effect of allowing information about past convictions of domestic violence to be released under AS 12.62.160(b)(11) to an interested person, if the

information is requested to help decide if a person should be given supervisory or disciplinary power over a child or dependent adult.

Section 23 is a conforming, definitional amendment.

Section 24 amends the Alaska Police Standards Council statute on minimum standards for permanent appointment as a police officer to include at least 12 hours instruction in domestic violence.

Section 25 requires correctional, probation, and parole officers to be trained in domestic violence in order to be certified.

Section 26 amends the requirements for domestic violence education in police training programs by adding training in investigating and report writing in domestic violence cases, the laws relating to domestic violence protective orders, and general information about the effects of domestic violence. The section also requires police training programs to consult with the Council on Domestic Violence and Sexual Assault in preparing domestic violence training programs.

Section 27 adds to the duties of peace officers in domestic violence cases by requiring the officer to transport the victim and the victim's family to a shelter or safe home, assist in removing belongings from a residence, help the victim obtain medical care, and give notice of the victim's rights. It also allows a peace officer to seize a deadly weapon for protective purposes, and requires the weapon to be returned to the owner if it is not needed for evidence.

Section 28 revises the notice required to be given by a peace officer to a domestic violence victim by expanding the information which must be provided. In addition to the information required in current law, a victim must be advised that the officer will assist in retrieving belongings from a residence, obtaining medical care, and obtaining an emergency protective order. The victim must also be advised concerning domestic violence protective orders and the protections which are available in an order.

Section 29 requires a peace officer to arrest a person who the officer has probable cause to believe has committed domestic violence, violated a domestic violence protective order, or violated a condition of release in connection with a domestic violence charge within the last 12 hours. There are three exceptions to this mandate: first, if there is more than one domestic violence complaint arising from the same incident, the officer must evaluate which party is the principal aggressor and arrest that person. Second, arrest is not mandated in homicides. Homicide investigations require painstaking investigation; a hasty arrest would likely result in a weaker case. Further, since the victim is deceased the urgency to arrest the perpetrator to protect the victim is no longer present.

Third, a peace officer may request authorization from the prosecuting authority not to arrest.

This section also prohibits a peace officer from threatening to arrest all the persons present in an incident of domestic violence. The purpose is to encourage victims to report domestic violence rather than to discourage reporting because of fear of arrest.

A peace officer who does not make an arrest after a domestic violence incident, or who arrests more than one person from a single incident, must put in writing the reasons for the action.

Section 29 also establishes a central registry of domestic violence protective orders in the Department of Public Safety. It contains all protective orders issued in this state and those issued in other states and filed under AS 18.66.140. A petitioner or respondent under a protective order may challenge the accuracy of information in the registry by procedures provided. Protective orders should be entered in the registry within 24 hours of being issued or registered.

Section 30 adds crimes involving domestic violence to those misdemeanor convictions which would disqualify a person from obtaining a permit to carry a concealed weapon. The section also adds a conforming amendment, which adds the issuance of a protective order under AS 18.66 to those issued under former AS 25.35 as a basis for denial of a permit to carry a concealed weapon.

Section 31 is a conforming amendment, adding orders issued under AS 18.66 to those under former AS 25.35 as a basis for immediate suspension of a permit to carry a concealed weapon.

Section 32 adds new responsibilities to the Council on Domestic Violence and Sexual Assault. The council must consult with specific public entities throughout the state to provide expertise in training people who come in contact with victims of domestic violence and their families.

Section 33 adopts provisions for obtaining protective orders in domestic violence cases. A victim of domestic violence or the parent or guardian of a victim may apply to the courts for a domestic violence protective order. There are three types of protective orders that may be issued:

- 1) a protective order issued after notice to the respondent and a hearing;
- 2) an *ex parte* protective order; and

3) an emergency protective order.

The extent of protection available in the order depends on the type of protective order.

A court may grant a protective order after notice and hearing if it finds by a preponderance of evidence that the respondent committed a crime involving domestic violence. The protection available in such an order includes, for example, ordering the respondent to stay away from the petitioner, the petitioner's residence, place of employment or other place, removing the respondent from the residence of the petitioner, and other relief the court determines necessary to protect the victim. A protective order issued after notice and hearing is effective for a year or, if the condition is to stay away from the victim until further order of the court. The authorized protections are more extensive and the effective period is longer than current law. Under present law a domestic violence injunction is effective for 90 days, with the possibility of one 45 day extension.

A victim of domestic violence may request a protective order and ask for *ex parte* relief. If the petition establishes probable cause that a crime involving domestic violence has occurred, and the court finds it necessary to protect the petitioner it shall, without notice or hearing, issue the order *ex parte*. An *ex parte* order may not order all protections available in a protective order after notice and hearing; rather, the protections available focus on the immediate safety of the victim. For example, an *ex parte* protective order may not order the respondent to participate in a program of rehabilitation for batterers. An *ex parte* order expires 20 days after it is issued unless extended or dissolved by the court.

An emergency protective order may be obtained by a peace officer on behalf of a victim of a crime involving domestic violence. It may be obtained by a telephone call to a judicial officer, if there is probable cause to believe that a person is in imminent danger of domestic violence, based on the allegation of the recent commission of domestic violence directed toward the petitioner. The protections available in the order concern the immediate safety of the victim. It expires 72 hours after issuance. There is no similar provision in existing law.

As with current law, either the petitioner or the respondent may request modification of a protective order. For an *ex parte* order, the court must schedule a hearing on 3 days notice, unless the court prescribes a shorter notice period. A hearing on a request to modify a protective order issued after notice and hearing must be scheduled within 20 days of the request, unless the court determines that the request to modify is meritless on its face.

If a protective order prohibits contact by the respondent with the petitioner, the initiation of contact by the petitioner does not excuse the contact, and does not

invalidate the order. Mutual protective orders are prohibited, and mediation may not be ordered for issues arising from the petition. As in present law, a protective order is in addition to any other civil or criminal remedy.

A protective order issued by another state may be filed with the courts of this state, and must be enforced as if they were issued by a court in this state.

The court system must prepare forms and instructions for applying for protective orders after consulting with the Council on Domestic Violence and Sexual Assault. Petitions must include a statement of pending litigation between the petitioner and the respondent. Procedures for service of process are the same as in current law, except that fees for service of process may not be charged in a case seeking only domestic violence protective relief.

When a court issues a protective order, it must send the order to the appropriate law enforcement agency. Law enforcement agencies must establish procedures to inform their officers, and peace officers must use every reasonable means to enforce the order.

The section also addresses health treatment for victims, education about domestic violence, and prevention. It requires the Department of Health and Social Services to adopt standards and procedures for health care to victims. It requires public employers of people who work with children and families to provide continuing education to their employees who are required by law to report abuse or neglect of children. It requires the court system and the Department of Law to provide continuing education to their employees who come into contact with domestic violence victims and perpetrators.

These agencies must consult with the Council on Domestic Violence and Sexual Assault in formulating continuing education programs. General standards for the subject matter to be included in the training are provided. Decisions regarding other particulars of the continuing education including length and form of training (whether oral or written) are left to the individual agency.

"Domestic violence" for purposes of the Act is defined as one of the following offenses, or a similar municipal ordinance violation, that is directed to a household member:

- crimes against a person under AS 11.41;
- burglary under AS 11.46.300 - 11.46.310;
- criminal trespass under AS 11.46.320 - 11.46.330;
- arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
- criminal mischief under AS 11.46.480 - 11.46.486;
- terroristic threatening under AS 11.56.810;

violating a protective order under AS 11.56.740; and harassment under AS 11.61.120(a)(2) - (4).

In present law domestic violence includes only crimes against the person under AS 11.41.

"Household member" is defined as including adults or minors who currently or formerly were married, lived together, dated, or have engaged in a sexual relationship; adults or minors related by blood or adoption, current or former marriage, who have a child in common, and minor children of persons described above.

Section 34 is a conforming amendment which provides that a petition for a protective order under AS 18.66 may be filed in either the superior or district court. This is the same as present law.

Section 35 is a conforming amendment adding protective orders under AS 18.66 to those issued under former AS 25.35 to the jurisdiction of the district court and providing that petitions for protective order under AS 18.66 may be filed in either superior or district court.

Section 36 is a conforming amendment providing that magistrates and district court judges may issue protective orders under AS 18.66.

Section 37 is a conforming amendment which substitutes AS 18.66.160 for AS 25.35.040 in regard to service of process for domestic violence protective orders.

Section 38 adds a provision to the child custody statute to allow the address and telephone number of the victim of domestic violence to be kept confidential.

Section 39 also addresses child visitation in cases where domestic violence has occurred. Conditions which may be imposed on visitation where domestic violence occurred are provided, including supervised visitation.

Sections 40 and 41 amend the statute allowing mediation in child custody cases whenever a party petitions for mediation. The Act prohibits mediation in cases where a domestic violence protective order is in effect. If there is no order in effect but the court finds that domestic violence has occurred, mediation is allowed only when certain safeguards are met -- the victim requests mediation, the mediator is trained in domestic violence cases, and the victim is allowed a supporting person to attend. A mediator assigned to a child custody case is required to screen for domestic violence, and may not mediate where either party has committed a crime involving domestic violence unless the safeguards are met.

Section 42 amends the provision concerning modification of a child custody or visitation award. Modification is allowed if the court determines there has been a change in circumstances. The Act provides that a finding that domestic violence has occurred since the last decision constitutes a change in circumstances.

Sections 43 and 44 addresses mediation in divorce actions. It qualifies the provision that mediation may be ordered whenever a request for mediation is filed within a certain time limit. Mediation may not be ordered if a protective order under AS 18.66 is in effect. Mediation may not be ordered if a party objects based on domestic violence unless certain safeguards are present. These safeguards include the victim requesting mediation, the mediator being trained in domestic violence, and allowing a support person to attend with the victim. Additionally, when a mediator is appointed without an objection based on domestic violence, the mediator must screen for domestic violence, and may not continue mediation if either party has committed a crime involving domestic violence unless safeguards are present.

Section 45 is a conforming amendment providing that protective orders under AS 18.66 may be ordered while a divorce case is pending.

Sections 46 and 47 amend the statute allowing mediation or family counseling during the pendency of a divorce action by providing that mediation and family counseling may not be ordered if a protective order under AS 18.66 is in effect. Mediation or family counseling may not be ordered if a party objects based on domestic violence, unless the safeguards discussed in section 41 are provided.

Sections 48 and 49 address the court's responsibilities in regard to a petition for dissolution of the marriage filed by both parties to a marriage. The petition must state whether a criminal charge of domestic violence has been filed or whether a petition for a domestic violence protective order has been filed by a member of the household during the marriage. In such cases, the court must give heightened scrutiny to the dissolution agreement to ensure it is fair to both parties. The court must also give heightened scrutiny to a dissolution agreement if there is any evidence of domestic violence during the marriage.

Section 50 is a conforming, definitional amendment.

Section 51 amends AS 33.16.120, which establishes victims' rights in connection to parole, by adding a requirement that the Parole Board inform a victim of domestic violence 30 days in advance of a hearing to consider discretionary parole for the prisoner. It also requires the board to inform the victim of its decision to grant or deny discretionary parole and to release the prisoner on mandatory parole. The victim must be informed of the area a parolee will reside and conditions on the parole of a prisoner, and of any changes in these conditions.

Section 52 amends AS 33.16.150 to provide for conditions of parole in domestic violence cases, in addition to those conditions which may be imposed in other cases. These conditions parallel the conditions which may be imposed as bail or probation considerations for domestic violence offenders. It also requires the Parole Board to establish procedures for informing the victim of relevant information concerning the parolee and for responding to reports of noncompliance with release conditions by the parolee.

Section 53 adds violation of the new conditions of release as a basis for revocation of parole.

Section 54 addresses the factors which the Parole Board must consider in releasing the parolee from custody pending a decision on whether to revoke parole. It provides that if the person is on parole for a domestic violence crime, and the alleged violation is based on an act of domestic violence, the parolee may not be released pending the final revocation hearing.

Section 55 is a conforming, definitional amendment.

Section 56 allows a victim of domestic violence to request to be notified by the Parole Board of an application for executive clemency by the parolee, and allows the victim to comment in writing on the application to the board.

Section 57 is a conforming, definitional amendment.

Section 58 requires the Commissioner of Corrections to give notice of a status change of an offender to the victim of domestic violence.

Section 59 allows the Commissioner of Corrections to release a domestic violence offender on prerelease and short-duration furloughs only under conditions which protect the victim and the victim's family.

Section 60 and 61 require the Commissioner of Corrections to notify the victim and to accept and consider comments by a victim of domestic violence before deciding to release the prisoner on prerelease furlough. The victim must be notified of the decision to release the prisoner.

Section 62 is a conforming, definitional amendment.

Section 63 adds payment for court ordered rehabilitation programs under AS 12.55.101, AS 18.66.100(c)(15), AS 25.20.061(3), AS 33.16.150(c)(2) to those obligations where an exemption from levy on permanent fund dividends is not available.

Section 64 amends the Office of Public Advocacy statute to allow appointment of a guardian ad litem for a minor under section 33.

Section 65 requires the Department of Corrections to adopt standards for rehabilitation programs for perpetrators of domestic violence. The department must determine if a program meets the standards before a court may order a person to participate in the program.

Section 66 is a conforming amendment correcting the statutory citation of definitions for domestic violence programs.

Section 67 requires the Department of Health and Social Services to develop procedures for screening reports of child abuse and neglect for the presence of domestic violence. The procedures must include criminal record checks of the alleged abusive or neglectful person and inquiry into whether a domestic violence protective order has been issued to either parent. The department must take action to protect the child if it determines that the domestic violence is endangering the child either directly or by exposure to domestic violence of another family member, and must provide victims with a notice setting out their rights and services available to victims.

Section 68 amends Rule 3, Alaska Rules of Civil Procedure, by setting the venue for petitions for domestic violence protective orders.

Section 69 amends Rule 100(a), Alaska Rules of Civil Procedure, regarding mediation in cases where domestic violence has occurred.

Section 70 amends Rule 505(a)(2), Alaska Rules of Evidence, to add an exception to spousal privilege in a case of a crime involving domestic violence.

Section 71 and 72 describe the statutes repealed as a result of adopting the Act.

Section 73 requests the Revisor of Statutes to move domestic violence related statutes from Title 25 to Title 18 so that domestic violence statutes are in the same Title, and requests the revisor to change statutory cross-references to these statutes.

Section 74 provides that domestic violence injunctions in force on the effective date of the Act remain effective until they expire by their own terms or are dissolved by the court.

Section 75 allows agencies with a duty to adopt regulations under the Act to begin formalizing regulations before the Act is effective.

Sections 76 -- 79 describes changes in court rules that do not require a super majority vote.

Section 80 describes changes in the bill which affect court rules and which require a 2/3 majority vote.

Sections 81 -- 84 contain the effective dates.

1 setting;

2 (2) visitation shall be supervised by another person or agency and under
3 specified conditions as ordered by the court;

4 (3) the perpetrator shall attend and complete, to the satisfaction of the
5 court, a program for the rehabilitation of perpetrators of domestic violence that meets
6 the standards set by the Department of Corrections under AS 44.28.020(b), or other
7 counseling; the perpetrator shall be required to pay the costs of the program or other
8 counseling;

9 (4) the perpetrator shall abstain from possession or consumption of
10 alcohol or controlled substances during the visitation and for 24 hours before visitation;

11 (5) the perpetrator shall pay costs of supervised visitation as set by the
12 court;

13 (6) the prohibition of overnight visitation;

14 (7) the perpetrator shall post a bond to the court for the return and
15 safety of the child; and

16 (8) any other condition necessary for the safety of the child, the other
17 parent, or other household member.

18 * Sec. 40. AS 25.20.080(a) is amended to read:

19 (a) Except as provided in (f) and (g) of this section, at [AT] any time within
20 30 days after a petition for child custody is filed under AS 25.20.060 the court may
21 order the parties to submit to mediation. Each party has [SHALL HAVE] the right to
22 challenge peremptorily one mediator appointed.

23 * Sec. 41. AS 25.20.080 is amended by adding new subsections to read:

24 (f) The court may not order or refer parties to mediation in a proceeding
25 concerning custody or visitation of a child if a protective order issued or filed under
26 AS 18.66.100 - 18.66.180 is in effect. The court may not order or refer parties to
27 mediation if a party objects on the grounds that domestic violence has occurred
28 between the parties unless the court finds that the conditions of (g)(1) - (3) of this
29 section are met. If the court proposes or suggests mediation under this subsection,

30 (1) ^{the mediator or mediator can only occur if} the victim of the alleged domestic violence ~~must~~ agree to the
31 mediation; ^{and} ~~and~~ ^{as the order of 9/15/11 - 6/1/11 was met}

per
Laurie Otto

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB314(JUD)

Revision Date: 5/6/96 Dept. Affected: Corrections
 Title: An Act relating to domestic violence..... BRU: All
 Component: _____
 Sponsor: Rep. Parnell
 Requester: S. Rules COMPONENT SERIAL NO. #0694

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.0	65.0	35.0	35.0	35.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	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	55.0	65.0	35.0	35.0	35.0	35.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	55.0	65.0	35.0	35.0	35.0	35.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	1	1				
PART-TIME			1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The primary effect of this bill on the DOC will be to allow the department to clearly delineate domestic violence cases from assault related cases. It will allow the department to improve responsiveness for victim services and security as well as to offender treatment and rehabilitation.

This bill gives the Council On Domestic Violence And Sexual Assault the responsibility to establish standards for training and treatment programs. To accomplish these requirements, CDVSA will require the services of a project coordinator for 10 months beginning 9/96 and for all of FY 98. Once fully implemented, maintenance level oversight will require only a half time position. \$5.0 in travel funds is required for on site compliance evaluation.

DOC will transfer by RSA the full amount allocated for these services to the Department of Public Safety/Council On Domestic Violence and Sexual Assault.

Prepared by: _____
 Division: Office of the Commissioner
 Approved by Commissioner: Margaret Pugh Margaret Pugh
 Agency: Department of Corrections

Phone: 465-4652
 Date: 5/6/96
 Date: 5/6/96

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Amendment #1
SEN FIN COMM

TO: SCS CSHB 314 (JUD)
9-LS1091Z

- Sec 41 Page ~~38~~³⁵, line ~~7~~³: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]
- Sec 44 Page 36, line ~~8~~⁴: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]
- Sec 47 Page 37, line ~~14~~¹⁵: Delete [OR PROPOSED BY THE COURT AND AGREED TO BY THE VICTIM]

This amendment returns the sections of the bill regarding mediation back to their initial form. The original language is that proposed by the model code for states which allow domestic violence cases to be mediated in certain circumstances.

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 314(FIN)

- 1 Page 21, line 20, following "the minor.":
- 2 Insert "Notwithstanding AS 25.24.310 or this section, the office of public advocacy
- 3 may not be appointed as a guardian ad litem or attorney for a minor in a petition filed under
- 4 this section unless the petition has been filed on behalf of the minor."

A M E N D M E N T

OFFERED IN THE SENATE

TO: SCS CSHB 314(JUD)

- 1 Page 15, line 23:
2 Delete "your abuser used, possessed, or threatened to use"
3 Insert "the court finds your abuser used or threatened to use,"
- 4 Page 15, line 24:
5 Delete "deadly weapon during the commission of your abuse"
6 Insert "weapon in your abuse or in future abuse"
- 7 Page 15, line 26:
8 Following "if":
9 Insert "the court finds that"
10 Following "used,":
11 Delete "possessed,"
- 12 Page 15, line 27:
13 Delete "during the commission of your abuse"
14 Insert "in your abuse or in future abuse"

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 314(JUD)

1 Page 15, line 23:

2 Delete "your abuser used, possessed, or threatened to use"

3 Insert "the court finds your abuser used or threatened to use,"

4 Page 15, line 24:

5 Delete "deadly weapon during the commission of your abuse"

6 Insert "weapon in your abuse or in future abuse"

7 Page 15, line 26:

8 Following "if":

9 Insert "the court finds that"

10 Following "used,":

11 Delete "possessed,"

12 Page 15, line 27:

13 Delete "during the commission of your abuse"

14 Insert "in your abuse or in future abuse"



Alaska Fire Chief's Association

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BILLY HARRIS
Past President
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Nikiski

Resolution 96-06

A RESOLUTION OF THE ALASKA FIRE CHIEF'S ASSOCIATION SUPPORTING HB314 WHICH IS AN ACT RELATING TO DOMESTIC VIOLENCE AND TO CRIME VICTIMS AND WITNESSES; AND AMENDING RULE 613, ALASKA RULES OF EVIDENCE.

WHEREAS,

the Alaska Fire Chief's Association is dedicated to reducing pain, suffering, and loss of life for all Alaskans,

AND WHEREAS,

domestic violence has the potential of affecting anyone of us at anytime,

AND WHEREAS,

domestic violence incidents are extremely hazardous to emergency medical responders,

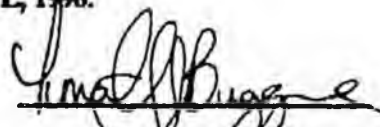
AND WHEREAS,

emergency medical responders are not trained or equipped to control violent persons.


NOW THEREFORE BE IT RESOLVED THAT,

THE ALASKA FIRE CHIEF'S ASSOCIATION STRONGLY SUPPORTS THE SIGNING OF HB314 INTO LAW.

ADOPTED, THIS 12th DAY OF APRIL, 1996.



President, AFCA

ATTEST: 

Secretary

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: CSHB 314(JUD) am

Revision Date: April 9, 1996 Dept. Affected: Public Safety
 Title: Violating Domestic Violence Orders BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Parnell
 Requestor: S. Judiciary COMPONENT SERIAL NO. 0799

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Division of Alaska State Troopers. The troopers currently respond to complaints of violating a domestic violence restraining order, this bill will clarify violations of the order.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: April 9, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 4/9/96
 Agency: Ronald L. Otte, Department of Public Safety

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Memorandum

APR 25 1996
11:15 AM

To: Larry Stevens of Senator Halford's office
From: Claire Steffens, Anchorage, AK
RE: Our telephone conversation yesterday re SENATE CS FOR CS FOR
HOUSE BILL NO 314 (JUD)

Date: April 25, 1996

Please see that all members of the Senate Finance Committee get this information in time for the hearing today. Thank you very much for your help.

I am faxing you the proposed revisions which I suggest are needed in this bill. The cost to the judicial system and Alaskans will be enormous if some changes are not made. I did not have time to go through the entire bill as I would have liked to. Accordingly, I have faxed only the pages which I have reviewed.

This bill needs a lot more work. It is very lopsided and appears to have some serious constitutional defects.

Please keep in mind that the bill does nothing to prevent or stop domestic violence: it is punitive and after the fact. If domestic violence is to be prevented then, based on my 15 years of experience in the field, I suggest that one of the main "weapons" (as well as concerns of parents involved in domestic violence) be made a non-issue. I am referring to the children of the relationship. If the law provided that each parent would have 50/50 custody of the children, unless such custody were shown to be harmful to the child/children, the parents would have one less major subject to fight about and the race to the courthouse for domestic violence orders (to be able to snatch the children) would be over. It would also prevent the current abuses of falsely alleging domestic violence so that custody of the children can be gained. The courts are loath to upset custody arrangements established by prior (i.e., domestic violence) orders.

Thank you for your help with this matter.

Sincerely,


Claire Steffens

- 1 (6) sexual assault in any degree;
2 (7) sexual abuse of a minor in any degree;
3 (8) robbery in any degree;
4 (9) coercion;
5 (10) extortion;
6 (11) arson in any degree;
7 (12) burglary in any degree;
8 (13) criminal mischief in the first, second, or third degree;
9 (14) driving while intoxicated or another crime resulting from the
10 operation of a motor vehicle, boat, or airplane when the offender is intoxicated;
11 (15) a crime involving domestic violence, as defined in
12 AS 18.66.990.

13 * Sec. 3. AS 11.41.260(a) is amended to read:

14 (a) A person commits the crime of stalking in the first degree if the person
15 violates AS 11.41.270 and

16 (1) the actions constituting the offense are in violation of an order
17 issued ~~or filed~~ under AS 18.66.100 - 18.66.180 or issued under former
18 AS 25.35.010(b) or 25.35.020;

19 (2) the actions constituting the offense are in violation of a condition
20 of probation, release before trial, release after conviction, or parole;

21 (3) the victim is under 16 years of age;

22 (4) at any time during the course of conduct constituting the offense
23 the defendant possessed a deadly weapon;

24 (5) the defendant has been previously convicted of a crime under this
25 section, AS 11.41.270, or AS 11.56.740, or a law or ordinance of this or another
26 jurisdiction with elements similar to a crime under this section, AS 11.41.270, or
27 AS 11.56.740; or

28 (6) the defendant has been previously convicted of a crime, or an
29 attempt or solicitation to commit a crime, under (A) AS 11.41.100 - 11.41.250,
30 11.41.300 - 11.41.460, AS 11.56.810, AS 11.61.120, or (B) a law or an ordinance of
31 this or another jurisdiction with elements similar to a crime, or an attempt or

solicitation to commit a crime, under AS 11.41.100 - 11.41.250. 11.41.300 - 11.41.460. AS 11.56.810, or AS 11.61.120, involving the same victim as the present offense.

* Sec. 4. AS 11.46.350(a) is amended to read:

(a) As used in AS 11.46.300 - 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued or filed under AS 18.66.100 - 18.66.180 or issued under former AS 25.35.010(b) or 25.35.020.

* Sec. 5. AS 11.56.740(a) is amended to read:

(a) A person commits the crime of violating a

~~(1) protective order if the person is subject to a protective order containing a provision listed in AS 18.66.100(c)(1) - (7) and knowingly commits or attempts to commit an act in violation of that provision;~~

~~(2) domestic violence restraining order if [(1)] the person knowingly violates a provision of an order issued before July 1, 1996, under AS 25.35.010(b) or 25.35.020~~

~~(A) restraining the person from communicating directly or indirectly with another; and~~

~~(B) [(2)] at the time the restraining order was issued, the court made a finding that the person had subjected another to domestic violence.~~

* Sec. 6. AS 11.56.740 is amended by adding new subsections to read:

~~(c) It is not a defense to a prosecution under (a) of this section that the person who obtained the order initiated the contact or invited the defendant into the residence of that person, regardless of ownership of the residence, or into a propelled vehicle in the possession of or occupied by that person.~~

(d) In this section, "protective order" means an order issued or filed under

IT SHOULD NOT BE A CRIME TO VIOLATE A CIVIL COURT ORDER.
THIS IS STRICT LIABILITY + VIOLATES THE CONSTITUTIONAL NEED FOR MEDICAL ATTENTION NEEDED FOR A CRIME.

Usually she contacts him to entrap or to reconcile.

1 AS 18.66.100 - 18.66.180.

2 * Sec. 7. AS 11.61.200(a)(8) is amended to read:

3 (8) violates AS 11.46.320 or 11.46.330 by entering or remaining
4 unlawfully on premises or in a propelled vehicle in violation of a provision of an order
5 issued ~~or filed~~ under AS 18.66.100 - 18.66.180 or issued under former
6 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a
7 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

8 * Sec. 8. AS 12.25.030(b) is repealed and reenacted to read:

9 (b) In addition to the authority granted by (a) of this section, a peace officer

10 (1) shall make an arrest under the circumstances described in
11 AS 18.65.530;

12 (2) without a warrant may arrest a person if the officer has probable
13 cause to believe the person has, either in or outside the presence of the officer

14 (A) committed a crime involving domestic violence, whether the
15 crime is a felony or a misdemeanor; in this subparagraph, "crime involving
16 domestic violence" has the meaning given in AS 18.66.990;

17 (B) committed the crime of violating a protective order in
18 violation of AS 11.56.740; or

19 (C) violated a condition of release imposed under AS 12.30.025
20 or 12.30.027;

21 (3) without a warrant may arrest a person when the peace officer has
22 reasonable cause for believing that the person has

23 (A) committed a crime under or violated conditions imposed as
24 part of the person's release before trial on misdemeanor charges brought under

25 (i) AS 04.16.050 or an ordinance with similar elements;

26 or

27 (ii) AS 11.41.270;

28 (B) violated AS 04.16.050; however, unless there is a lawful
29 reason for further detention, a person who is under the age of 18 and who has
30 been arrested for violating AS 04.16.050 shall be cited for the offense and
31 released to the person's parent, guardian, or legal custodian; or

ORDERS
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1 AS 11.61.190 - 11.61.210, or a crime involving domestic violence. [AS 11.56.810,
2 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a
3 continuing threat to the victim or witness to the offense charged, the court shall
4 protect the address and telephone number of the victim or witness by providing the
5 information only to a person specified by the court or by imposing other restrictions
6 that the court considers necessary. When an address or telephone number is released
7 to a person specified by the court under this subsection, that person, who shall be
8 ordered not to disclose the information to the defendant, shall contact the victim or
9 witness on behalf of the defendant, and the defendant shall meet or speak with the
10 victim or witness only in the presence of that person.

11 * Sec. 18. AS 12.61.120(c) is amended to read:

12 (c) If ~~a defendant or a person acting on behalf of a defendant~~
13 *keep* REPRESENTING THE DEFENDANT; INCLUDING THE DEFENDANT'S
14 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS
15 SECTION,] contacts the victim of an offense with which the defendant is ~~or could be~~
16 charged, the person shall clearly inform the victim

17 (1) of the person's identity and specific association with the defendant;

18 (2) that the victim does not have to talk to the person unless the victim
19 wishes; and

20 (3) that the victim may have a prosecuting attorney or other person
21 present during an interview.

22 * Sec. 19. AS 12.61.120 is amended by adding new subsections to read:

23 (d) If a defendant or a person acting on behalf of a defendant wishes to make
24 a recording of statements of the victim of an offense with which the defendant is ~~or~~
25 ~~could be charged~~ *charged* in this or another jurisdiction, ~~or of a witness~~, the person shall, before
26 recording begins, obtain the consent of the victim ~~or witness~~ to record the statement by
27 clearly informing the victim ~~or witness~~ (1) of the information set out in (c) of this
28 section, (2) that the statement will be recorded if the victim ~~or witness~~ consents, and (3)
29 that the victim ~~or witness~~ may obtain a transcript or other copy of the recorded statement
30 upon request. When recording begins, the person making the recording shall indicate in
31 the recording that the victim ~~or witness~~ has been informed as required by this subsection,
32 and the victim ~~or witness~~ shall state in the recording that consent of the victim ~~or witness~~

1 to the recording has been given.

2 (e) If a victim or witness requests a transcript or other copy of a recorded
3 statement taken under (d) of this section, the defense shall prepare the transcript or other
4 copy and provide it to the person whose statement was recorded.

5 (f) In this section, "recording" means capturing a statement of a person, whether
6 by magnetic tape or other electronic or electromagnetic means.

7 * Sec. 20. AS 12.61 is amended by adding new sections to read:

8 Sec. 12.61.125. VICTIMS AND WITNESSES OF SEXUAL OFFENSES. (a)

9 The defendant accused of a sexual offense, the defendant's counsel, or an investigator
10 or other person ^{representing} ~~acting on behalf of~~ the defendant, may not

11 (1) notwithstanding AS 12.61.120, contact the victim of the offense or
12 ~~a witness to the offense if the victim or witness~~, or the parent or guardian of the victim
13 ~~or witness if the victim or witness~~ is a minor, has informed the defendant or the
14 defendant's counsel in writing or in person that the victim ~~or witness~~ does not wish to
15 be contacted by the defense; a victim ~~or witness~~ who has not informed the defendant or
16 the defendant's counsel in writing or in person that the victim does not wish to be
17 contacted by the defense is entitled to rights as provided in AS 12.61.120;

18 (2) obtain a statement from the victim of the offense ~~or a witness to the~~
19 ~~offense~~, unless,

20 (A) if the statement is taken as a recording, the recording is taken
21 in compliance with AS 12.61.120; or

22 (B) if the statement is not taken as a recording, written
23 authorization is first obtained from the victim ~~or witness~~, or from the parent or
24 guardian of the victim ~~or witness~~ if the victim ~~or witness~~ is a minor; the written
25 authorization must state that the victim ~~or witness~~ is aware that there is no legal
26 requirement that the victim ~~or witness~~ talk to the defense; a victim ~~or witness~~
27 making a statement under this subparagraph remains entitled to rights as provided
28 in AS 12.61.120.

29 (b) A defendant who is the parent or guardian of a minor victim ~~or witness~~ may
30 not provide the authorization required under (a) of the section.

31 ~~(c) If an attorney, or a person acting on behalf of the defendant or an attorney,~~
32 ~~violates this section, the court shall refer the violation to the Disciplinary Board of the~~

1 ~~Alaska Bar Association as a grievance.~~

2 (d) In this section,

3 (1) "recording" has the meaning given in AS 12.61.120;

4 (2) "sexual offense" means a violation of AS 11.41.410 - 11.41.470.

5 Sec. 12.61.127. INADMISSIBILITY OF STATEMENTS TAKEN IN
6 VIOLATION OF AS 12.61.120 or 12.61.125. A statement obtained from a victim or
7 ~~witness~~ in violation of AS 12.61.120 or 12.61.125 is presumed inadmissible in a
8 prosecution of the defendant. To overcome the presumption of inadmissibility, the
9 defendant must prove by clear and convincing evidence that

10 (1) the statement is reliable;

11 (2) similar evidence is unavailable from any other source; and

12 (3) failure to introduce the statement would substantially undermine the
13 reliability of the fact-finding process and result in manifest injustice.

14 * Sec. 21. AS 12.61.900 is amended by adding new paragraphs to read:

15 (3) "crime involving domestic violence" has the meaning given in
16 AS 18.66.990;

17 (4) "person acting on behalf of a defendant" includes the defendant's
18 attorney, an ^{authorized} agent of the defendant or the defendant's attorney, or a person specified by
19 the court under AS 12.61.120(b) ~~or an agent of that person~~, but does not include the
20 defendant;

21 (5) "witness" means a person contacted in connection with a criminal
22 case because the person may have knowledge or information about the criminal case.

23 * Sec. 22. AS 12.62.900(22) is amended to read:

24 (22) "serious offense" means a conviction for a felony offense, a crime
25 involving serious domestic violence, ^{involving more than fear} or a violation or attempted violation of any of the
26 following laws, or of the laws of another jurisdiction with substantially similar
27 elements:

28 (A) AS 11.41.410 - 11.41.470;

29 (B) AS 11.51.130(a)(1), (3), or (5);

30 (C) AS 11.61.110(a)(7);

31 (D) AS 11.66.100 - 11.66.130; or

32 (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -

1 VIOLATION OF CONDITIONS OF RELEASE. (a) Except as provided in (b) or (c)
 2 of this section, a peace officer, with or without a warrant, shall arrest a person if the
 3 officer has probable cause to believe the person has, either in or outside the presence
 4 of the officer, within the previous 12 hours,

5 (1) committed domestic violence, except an offense under
 6 AS 11.41.100 - 11.41.130, whether the crime is a felony or a misdemeanor;

7 (2) committed the crime of violating a protective order in violation of
 8 AS 11.56.740;

9 (3) violated a condition of release imposed under AS 12.30.027.

10 (b) If a peace officer receives complaints of domestic violence from more than
 11 one person arising from the same incident, the officer shall evaluate the conduct of
 12 each person to determine who was the principal physical aggressor. If the officer
 13 determines that one person was the principal physical aggressor, the other person or
 14 persons need not be arrested. In determining whether a person is a principal physical
 15 aggressor, the officer shall consider

16 (1) prior complaints of domestic violence;

17 (2) the relative severity of the injuries inflicted on each person;

18 (3) the likelihood of future injury from domestic violence to each
 19 person; and

20 (4) whether one of the persons acted in defense of self or others.

21 (5) ~~that no gender preference or bias may be part of the determination~~
 (c) A peace officer is not required to make an arrest under (a) of this section *at will*

22 if the officer has received authorization not to arrest from a prosecuting attorney in the
 23 jurisdiction in which the offense under investigation arose.

24 (d) When investigating a crime involving domestic violence, a peace officer
 25 may not threaten or suggest the possible arrest of all persons involved in the same.

26 incident in a manner that would have a tendency to discourage requests for
 27 intervention by law enforcement in incidents involving domestic violence. *unless all*

28 *or more than one person was engaged in an act of domestic violence.*
 (e) In addition to the contents of any other report, a peace officer who does

29 not make an arrest after investigating a complaint of domestic violence, or who arrests
 30 two or more persons based on the same incident, shall describe in writing the reasons
 31 for not making an arrest or for arresting more than one person.

1 (f) A person may not bring a civil action for damages for a failure to comply
2 with the provisions of this section.

3 Sec. 18.65.540. CENTRAL REGISTRY OF PROTECTIVE ORDERS. (a)
4 The Department of Public Safety shall maintain a central registry of protective orders
5 issued by or filed with a court of this state under AS 18.66.100 - 18.66.180. The
6 registry must include for each protective order the names of the petitioner and
7 respondent, their dates of birth, and the conditions and duration of the order. The
8 ~~registry shall retain a record of the protective order after it has expired.~~

9 (b) A peace officer receiving a protective order from a court under
10 AS 18.66.100 - 18.66.180, a modified order issued under AS 18.66.120, or an order
11 dismissing a protective order, must take reasonable steps to ensure that the order,
12 modified order, or dismissal is entered into the central registry within 24 hours after
13 being received.

14 (c) A petitioner or respondent who is the subject of a protective order may
15 request the Department of Public Safety to correct information about the order in the
16 central registry. *The person must be provided with the information via the registry.*
17 The person requesting the correction has the burden of proving that *pertinent*
18 the information is inaccurate or incomplete. The person may appeal an adverse *to that person*
19 decision to the court under applicable court rules for appealing the decision of an *on*
20 administrative agency. On appeal, the appellant has the burden of showing that the *demanded*
21 department's ~~action was an abuse of discretion.~~ *at no cost*
22 *or nominal*
23 *cost.* information is incorrect. An appeal filed under this subsection
24 may not collaterally attack a protective order, challenge the grounds upon which the
25 order was based, or challenge the evidence submitted in support of the order.

26 (d) The Department of Public Safety may adopt regulations to implement this
27 section.

28 (e) A person may not bring a civil action for damages for a failure to comply
29 with the provisions of this section.

30 Sec. 18.65.590. DEFINITION. In AS 18.65.510 - 18.65.590, "domestic
31 violence" has the meaning given in AS 18.66.990.

* Sec. 30. AS 18.65.705 is amended to read:

32 Sec. 18.65.705. QUALIFICATIONS TO OBTAIN A PERMIT. A person is
33 qualified to receive and hold a permit to carry a concealed handgun if the person

1 suspended imposition of sentence.

2 * Sec. 32. AS 18.66.050 is amended by adding new paragraphs to read:

3 (12) consult with the Department of Health and Social Services in the
4 formulation of standards and procedures for the delivery of services to victims of
5 domestic violence by health care facilities and practitioners of healing arts and
6 personnel in those facilities as required in AS 18.66.300;

7 (13) consult with the Alaska Police Standards Council and other police
8 training programs in the state to develop training programs regarding domestic violence
9 for police officers and for correction, probation, and parole officers;

10 (14) consult with public employers, the Alaska Supreme Court, school
11 districts, and prosecuting authorities who are required by AS 18.66.300 - 18.66.310 to
12 provide continuing education courses in domestic violence to employees.

13 * Sec. 33. AS 18.66 is amended by adding new sections to read:

14 ARTICLE 2. PROTECTIVE ORDERS.

15 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;
16 RELIEF. (a) A person who is or has been a victim of a ~~crime~~ involving domestic
17 violence may file a petition in the ~~district~~ or superior court for a protective order
18 against a household member. A parent, guardian, or other representative appointed by
19 the court under this section, may file a petition for a protective order on behalf of a
20 minor. The court may appoint a guardian ad litem or attorney to represent the minor.

21 (b) When a petition for a protective order is filed, the court shall schedule a
22 hearing, and provide at least 10 days' notice to the respondent of the hearing and of
23 the respondent's right to appear and be heard, either in person or by an attorney. If
24 the court finds by a preponderance of evidence that the respondent has committed a
25 crime involving domestic violence against the petitioner, regardless of whether the
26 respondent appears at the hearing, the court may order any relief available under (c)
27 of this section. The provisions of a protective order issued

28 ~~(1) under (c)(1), (2), (4), or (5) of this section are effective until further~~
29 ~~order of the court,~~

30 ~~(2) under (c)(3) or (6) - (16) of this section are effective for one year~~
31 unless earlier dissolved by court order.

(c) A protective order under this section may

(1) prohibit the respondent from threatening to commit or committing domestic violence;

(2) prohibit the respondent from stalking or harassing the petitioner or telephoning, contacting, or otherwise communicating directly or indirectly with the petitioner;

(3) remove and exclude the respondent from the residence of the petitioner, ^{unless respondent is} ~~regardless of ownership~~ of the residence, ^{then petitioner must be excluded.}

(4) direct the respondent to stay away from the residence, school ^{or petitioner's} or ^{a student} place of employment of the petitioner or any specified place frequented by the petitioner or any designated household member ^{who also has been the subject of domestic violence;}

(5) prohibit the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner;

(6) prohibit the respondent from using or possessing a deadly weapon if the court finds the respondent used, or threatened to use, a weapon in the domestic violence or in future domestic violence;

(7) direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent used, or threatened to use, a firearm in the domestic violence or in future domestic violence;

(8) request a peace officer to accompany the petitioner to the ~~petitioner's~~ residence to ensure that the petitioner

(A) safely obtains possession of the ~~petitioner's~~ residence, vehicle, or personal items; and

(B) is able to safely remove a vehicle or personal items from the ~~petitioner's~~ residence;

(9) award temporary custody of a minor child to the petitioner and may arrange for visitation with a minor child if the safety of the child ~~and the petitioner~~ can be protected; ^{either parent if} ~~if visitation is allowed, the court may order visitation under the conditions provided in AS 25.20.061;~~ ^{the court finds it in the child's best interests}

(10) give the petitioner possession and use of ^{petitioner's} a vehicle and other essential personal items, ~~regardless of ownership of the items.~~

How are shelters operated?

respondent and/or

either parent if the court finds it in the child's best interests

petitioner's

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(11) prohibit the ^{petitioner and/or respondent} ~~respondent~~ from consuming controlled substances; ^{or alcohol}

(12) require the respondent to pay support for the ~~petitioner~~ or a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the ~~petitioner~~ or child;

(13) require the respondent to reimburse the petitioner or other person for expenses associated with the domestic violence, including medical expenses, counseling, shelter, and repair or replacement of damaged property;

(14) require the respondent to pay costs and fees incurred by the petitioner in bringing the action under this chapter;

(15) order the respondent, ^{and/or petitioner} ~~at the respondent's~~ expense, to participate in (A) a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b) or (B) treatment for the abuse of alcohol or controlled substances, or both;

(16) order other relief the court determines necessary to protect the petitioner or any household member.

(d) If the court issues a protective order under this section, it shall

(1) make reasonable efforts to ensure that the order is understood by the petitioner and by the respondent, if present; and

(2) have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.

~~(e) A court may not deny a petition for a protective order under this section solely because of a lapse of time between an act of domestic violence and the filing of the petition.~~ *This would allow 10 year old arguments to serve as basis for DV orders. BAD IDEA!*

Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.

(a) A person who is a victim of a crime involving domestic violence may file a petition under AS 18.66.100(a) and request an ex parte protective order. If the court finds that the petition establishes probable cause that a crime involving domestic violence has occurred, it is necessary to protect the petitioner from domestic violence, and if the petitioner has certified to the court in writing the efforts, if any, that have been made to provide notice to the respondent, the court shall ex parte and without

*Appeal could
lose their home,
car, & property
due to ex parte
order. 8 That
10 bad.*

notice to the respondent issue a protective order. An ex parte protective order may grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex parte protective order expires ⁵20 days after it is issued unless dissolved earlier by the court at the request of either the petitioner or the respondent, ~~and after notice and, if requested, a hearing, or unless extended by the court at the request of the petitioner,~~

If the order is extended, the court shall enter into the record the reasons for the extension. ~~If a court issues an ex parte protective order, the court shall have the order delivered to the appropriate local law enforcement agency for expedited service and for entry into the central registry of protective orders under AS 18.65.540.~~ *the court may not extend an ex parte order unless the respondent has been given an opportunity to be present at a hearing on the order.*

(b) A peace officer, on behalf of and with the consent of a victim of a crime involving domestic violence, may request an emergency protective order from a judicial officer. The request may be made orally or in writing based upon the sworn statement of a peace officer, and in person or by telephone. *but the victim must also testify to the court.* If the court finds probable cause to believe that the victim is in immediate danger of domestic violence based on an allegation of the recent commission of a crime involving domestic violence, the court ex parte shall issue an emergency protective order. In an emergency protective order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8), (10), (11), and (16). An emergency protective order expires 72 hours after it is issued unless dissolved earlier by the court at the request of the petitioner.

(c) A peace officer who obtains an emergency protective order under (b) of this section shall

- (1) place the provisions of an oral order in writing on a form provided by the court and file the written order with the issuing court by the end of the judicial day after it was issued;
- (2) provide a copy of the order to the petitioner;
- (3) serve a copy of the order on the respondent; and
- (4) comply with the requirements of AS 18.65.540 for ensuring that the order is entered into the central registry of protective orders under AS 18.65.540.

~~(d) A court may not deny a petition for an ex parte protective order filed under (a) of this section solely because of a lapse of time between an act of domestic violence and the filing of the petition.~~

1 Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either
2 the petitioner or the respondent may request modification of a protective order. If a
3 request is made for modification of

4 (1) an ex parte protective order under AS 18.66.110(a), the court shall
5 schedule a hearing on three days' notice or on shorter notice as the court may
6 prescribe; the court shall hear and rule on the request in an expeditious manner; or

7 (2) a protective order after notice and hearing under AS 18.66.100(b),
8 the court shall schedule a hearing within 20 days after the date the request is made,
9 except that if the court finds that the request is meritless on its face, the court may
10 deny the request without further hearing.

11 (b) If a request for a modification is made under this section and the
12 respondent raises an issue not raised by the petitioner, the court may allow the
13 petitioner additional time to respond.

5 days
The children of the respondent shall be
allowed visitation with respondent during the pending proceedings,

14 (c) If the court modifies a protective order under this section, it shall issue a
15 modified order and shall

16 (1) make reasonable efforts to ensure that the order is understood by
17 the petitioner and by the respondent, if present at the hearing; and

18 (2) have the order delivered to the appropriate local law enforcement
19 agency for expedited service and for entry into the central registry of protective orders
20 under AS 18.65.540.

21 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in
22 a protective order issued under AS 18.66.100 - 18.65.180 is prohibited from
23 communicating with the petitioner, excluded from the residence of the petitioner, or
24 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an
25 invitation by the petitioner to communicate, enter the residence or vehicle, or have
26 other prohibited contact with the petitioner does not waive or nullify any provision in
27 a protective order, but the petitioner shall be subject to penalties for
28 violation of the protective order.

29 (b) A court may ~~not~~ grant protective orders against the petitioner and the
respondent in the same action under this chapter.

(c) A court may not order parties into mediation or refer them to mediation
for resolution of the issues arising from a petition for a protective order under

*NEEDS
DUPPETE,
Petitioner is
not on
- agreed
- increased
- got to contribute first*

1 AS 18.66.100 - 18.66.180.

2 (d) In addition to other required information contained in a protective order,
3 the order must include in bold face type the following statements:

4 (1) "Violation of this order may be a misdemeanor, punishable by up
5 to one year of incarceration and up to a \$5,000 fine";

6 (2) "If you are ordered to have no contact with ^{a person} ~~the petitioner~~ or to stay
7 away from ^{a persons} ~~the petitioner's~~ residence, vehicle, or other place designated by the court,
8 an invitation by ^{that person} ~~the petitioner~~ to have the prohibited contact or to be present at or enter
9 the residence, vehicle, or other place does not in any way invalidate or nullify the
10 order."

11 (e) A protective order issued under this chapter is in addition to and not in
12 place of any other civil or criminal remedy. A petitioner is not barred from seeking
13 an order under AS 18.66.100 - 18.66.180 because of the existence of another civil
14 action between the petitioner and respondent.

15 Sec. 18.66.140. FILING AND ENFORCEMENT OF PROTECTIVE ORDERS
16 ISSUED IN OTHER STATES. (a) A certified copy of an unexpired protective order
17 issued in another jurisdiction may be filed with the clerk of court in any judicial
18 district in this state.

19 (b) A protective order filed in accordance with (a) of this section has the same
20 effect and must be enforced in the same manner as a protective order issued by a court
21 of this state.

22 (c) When a protective order is filed with the court under this section, the court
23 shall have the order delivered to the appropriate local law enforcement agency for
24 entry into the central registry of protective orders under AS 18.65.540.

25 Sec. 18.66.150. FORMS FOR PETITIONS AND ORDERS; FEES. (a) The
26 Alaska Court System, after consulting with the Council on Domestic Violence and
27 Sexual Assault and other interested persons and organizations, shall prepare forms for
28 petitions, protective orders, and instructions for their use by a person seeking a
29 protective order under this chapter. The forms must conform to the Alaska Rules of
30 Civil Procedure, except that information on the forms may be filled in by legible
31 handwriting.

1 consultation with the Council on Domestic Violence and Sexual Assault, provide
2 continuing education in domestic violence for judicial officers and court clerks who
3 have contact with parties involved in domestic violence.

4 (c) The Department of Law and other prosecuting authorities in the state shall,
5 in consultation with the Council on Domestic Violence and Sexual Assault, provide
6 continuing education in domestic violence for prosecuting attorneys and other
7 employees who have contact with persons involved in domestic violence.

8 (d) The continuing education required under (a) - (c) of this section must
9 include information on the following subjects:

- 10 (1) the nature, extent, and causes of domestic violence;
11 (2) procedures designed to promote the safety of the victim and other
12 household members;
13 (3) resources available to victims and perpetrators of domestic violence;
14 and
15 (4) the lethality of domestic violence.

16 ARTICLE 4. GENERAL PROVISIONS.

17 Sec. 18.66.990. DEFINITIONS. In this chapter,

- 18 (1) "council" means the Council on Domestic Violence and Sexual
19 Assault;
20 (2) "crisis intervention and prevention program" means a community
21 program that provides information, education, counseling, and referral services to
22 individuals experiencing personal crisis related to domestic violence or sexual assault
23 and to individuals in personal or professional transition, excluding correctional half-
24 way houses, outpatient mental health programs, and drug or alcohol rehabilitation
25 programs;
26 (3) "domestic violence" and "crime involving domestic violence" mean
27 one or more of the following offenses or a law or ordinance of another jurisdiction
28 having elements similar to these offenses, ~~or an attempt to commit the offense,~~ by a
29 household member against another household member:

30 (A) a crime against the person under AS 11.41;

31 ~~(B) burglary under AS 11.46.300 - 11.46.310;~~

How is this domestic violence?

Amended

depletive

within the last 5 years.

- 1 ~~(C) criminal trespass under AS 11.46.320 - 11.46.330;~~
- 2 ~~(D) arson or criminally negligent burning under AS 11.46.400 -~~
- 3 11.46.430;
- 4 ~~(E) criminal mischief under AS 11.46.480 - 11.46.486;~~
- 5 ~~(F) terroristic threatening under AS 11.56.810;~~
- 6 (G) violating a domestic violence order under AS 11.56.740; or
- 7 (H) harassment under AS 11.61.120(a)(2) - (4);
- 8 (4) "domestic violence program" means a program that provides
- 9 services to the victims of domestic violence, their families, or perpetrators of domestic
- 10 violence;
- 11 (5) "household member" includes
- 12 (A) adults or minors who are current or former spouses;
- 13 (B) adults or minors who live together or who have lived
- 14 together; *within the last 5 years.*
- 15 (C) adults or minors who are dating or who have dated; *within the last*
- 16 (D) adults or minors who are engaged in or who have engaged
- 17 in a sexual relationship; *within the last 5 years*
- 18 (E) adults or minors who are related to each other up to the
- 19 fourth degree of consanguinity, whether of the whole or half blood or by
- 20 adoption, computed under the rules of civil law;
- 21 ~~(F)~~ adults or minors who are related or formerly related by
- 22 marriage;
- 23 (G) persons who have a child of the relationship; and
- 24 (H) minor children of a person in a relationship that is described
- 25 in (A) - (G) of this paragraph;
- 26 (6) "local community entity" means a city or borough or other political
- 27 subdivision of the state, a nonprofit organization, or a combination of these;
- 28 (7) "judicial day" means any Monday through Friday that is not a state
- 29 holiday and on which the court clerk's offices are officially opened to receive legal
- 30 documents for filing;
- 31 (8) "petitioner" includes a person on whose behalf an emergency

Alaska State Legislature

REPRESENTATIVE
SEAN R. PARNELL



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HOUSE OF REPRESENTATIVES

SPONSOR STATEMENT House Bill 314

HB 314 strengthens Alaska's domestic violence prevention and intervention laws by adopting new and uniform laws based on the Model Code on Domestic and Family Violence, which was developed by the National Council of Juvenile and Family Court Judges.

HB 314 adopts model code language on domestic violence protection to establish additional protective order provisions and crimes for violating a protective order. HB 314 enhances current domestic violence response procedures through improved laws, education, and training which are highlighted in the establishing of: (1) mandatory arrest policy in domestic violence situations, (2) training for police agencies as well as professionals in the justice system who interact with victims of domestic violence, and (3) a central protective order registry.

Additionally, HB 314 prohibits surreptitious taping of crime victims and witnesses by the defense or those working for the defense. The bill also protects domestic violence and sexual assault victims and witnesses by requiring defense attorneys or those working for the defense to identify themselves and gain written consent to an interview.

Recently, the Alaska Bar Association adopted a rule to permit surreptitious taping. This rule allowing taping, without a person's notice or consent, is an alarming encroachment on privacy and was passed by the Bar Association's Board of Governors over the dissent of the Bar Association's own ethics committee (Ethics Committee letter attached).

HB 314 will bring much needed protection to victims and witnesses of violent crimes. The bill provides effective tools for the continuing work of preventing domestic violence in our state. This legislation is strongly supported by the victims rights community. I respectfully request your support.

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 111200
JUNEAU, ALASKA 99811-1200
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FAX: (907) 465-3627
OFFICE ADDRESS: 450 WHITTIER ST.

January 11, 1996

Deborah O'Regan, Executive Director
Alaska Bar Association
P.O. Box 100279
Anchorage, Alaska 99501

Dear Ms. O'Regan:

I am writing on behalf of the Alaska Council on Domestic Violence and Sexual Assault to reiterate our deep concern stated in our April 1995, letter, over the Alaska Bar Association's adoption of the policy that allows defense attorneys to surreptitiously record interviews of witnesses in criminal cases. It is my understanding that this rule was adopted without the Bar Association's own Ethics Committee's endorsement. We believe this rule is in direct conflict with the intent of Alaska's Rights of Victims statutes.

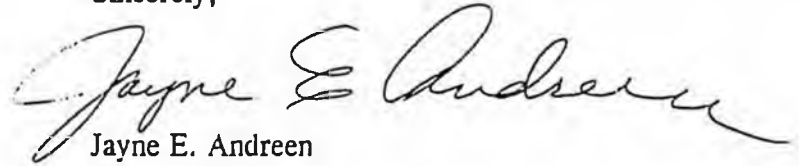
I further understand that the ABA's rationale for adopting this rule is based on the existence of AS 12.61.120 (c) which requires that any person representing the defendant must identify him/herself to the victim when making contact. The law is very clear that the representative must explain the relationship to the defendant and inform the victim of his/her right to refuse to talk to them. Victims also have the right to have someone else, including the prosecutor, present during the interview. The intent of this law is quite obvious; to allow a victim the opportunity to make an informed decision about whether or not to speak to the defense.

This law is necessary for a variety of reasons. Many victims of crime are not knowledgeable about the criminal justice systems. It is overwhelming to give a statement to law enforcement, let alone to deal with the prosecution and defense. This is also a time of crisis for victims who may be dealing with emotional, physical and financial hardships due to the crime. These factors, combined with the past unscrupulous actions of defendants, defense attorneys and their representatives, necessitated the state's action in adopting this statute to protect victims.

For the Alaska Bar Association to use a rationale that by identifying oneself to a victim gives one the authority to secretly tape that victim goes beyond the stretch of the Council's imagination. It is this type of unethical behavior that makes people so suspicious of the legal system. We ask you to rescind this rule in light of the intent of the law. Justice for defendants cannot be used as a rationale for exploiting crime victims.

I wish that I could be present for tomorrow's public hearing, but I only became aware of the meeting this week. Unfortunately, scheduling conflicts preclude my ability to travel to Anchorage. I would strongly encourage the Bar Association to consider teleconferencing public hearings in the future in order to allow full participation throughout the state.

Sincerely,

A handwritten signature in cursive script that reads "Jayne E. Andreen". The signature is written in dark ink and is positioned above the printed name and title.

Jayne E. Andreen
Executive Director

cc: Council Members
Alaska Network on Domestic Violence and Sexual Assault
Representative Sean Parnell



Alaska Women's Resource Center

111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276-0528 • Fax: (907) 278-8944

February 2, 1996

Representative Sean Parnell
State Capitol, Room 505
Juneau, AK 99801-1182

Dear Representative Parnell:

I am writing to you regarding House Bill No. 314. This bill is crucial to broadening the accountability for domestic violence offenses and to the fair treatment of victims of crimes. As you know, the components of this Bill include:

Reinforcing that domestic violence is unacceptable by expanding the number of restraining order violations for which perpetrators will be held criminally responsible.

Defendants or persons acting on behalf of defendants who wish to speak to victims to clearly inform the victim of their identity and association with the defendant; the victim does not have to talk to that person unless the victim wishes; and the victim may have a prosecuting attorney or other person present during an interview.

Both the recognition of domestic violence as a crime and acknowledgment of the rights of victims are crucial to the enforcement process. Only an informed victim can fully and fairly participate in the proceedings which determine the degree of guilt or innocence of the alleged perpetrator.

The Alaska Women's Resource Center supports House Bill No. 314 as an integral part of the law enforcement process.

Sincerely,

A handwritten signature in cursive script that reads "Diane J. Heard".

Diane J. Heard
Executive Director



S. T. A. R.

February 1, 1996

Business 907/276-7279
24 Hour Crisis 907/276-7273
Toll Free 1-800-478-8999
TIDY 907/278-9988

Representative Sean Parnell
515 Capital Building
Juneau, AK 99801

Dear Representative Parnell:

We support the passage of **House Bill No. 314**. This bill requires defendants or persons acting on behalf of defendants to clearly inform the victim of their identity and association with the defendant; that the victim does not have to talk to that person unless the victim wishes; and that the victim may have a prosecuting attorney or other person present during an interview.

As an agency that works with and for victims of sexual assault, we realize how critical it is to have a system that is supportive and responsive to victims' needs. After an assault where a victim was left powerless, it is an important part of the healing process to help victims understand their rights and choices. Victims have a right to be clearly informed so that they can choose what is best for them.

We wholeheartedly support Representative Parnell's effort to ensure that victims are informed and protected against surreptitious taping.

Thank you

Sincerely,

Trisha Gentle
Executive Director
Standing Together Against Rape

STANDING TOGETHER AGAINST RAPE

1057 W. Fireweed, Suite 230 • Anchorage, Alaska 99503



A United Way Agency



*Rick Mystrom,
Mayor*

ANCHORAGE POLICE DEPARTMENT

4501 South Bragaw Street • Anchorage, Alaska 99507-1599

Telephone (907) 786-8500



Service since 1921

January 31, 1996

Representative Sean R. Parnell
Alaska State Legislature
State Capitol (MS 3000)
Juneau, Alaska 99801-1182

Dear Representative Parnell,

We support your efforts on three House Bills that you have introduced. They are House Bills 25, 314, and 326.

House Bill 25 would allow reciprocal discovery between the prosecution and the defense in criminal matters. Under current law the defense enjoys an unfair advantage because they don't have to divulge information to the prosecution that may be critical at trial. The public and the defendant both deserve a fair trial, and your bill would help level the playing field.

House Bill 314 would strengthen our domestic violence laws by affording victims more protection under the law when a Temporary Restraining Order is issued by a court. We need the additional specificity contained in House Bill 314.

House Bill 326 would reverse what we think was a mistake on the part of the Bar Association when they adopted a rule that allows for surreptitious taping without a person's notice or consent. Victims should not be subjected to this type of taped recording.

We thank you for introducing these bills. If we can be of any assistance, please contact my office.

Sincerely,

Duane S. Udland
Deputy Chief

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

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

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Pres. Wrangell Chapter

Leroy Mcaloo, Member
Ketchikan
Pres. First City Chapter

James See, Member
Craig
Pres. Prince of Wales Chapter

February 5, 1996

Representative Sean Parnell
Alaska State Legislature
State Capitol (MS 3100)
Juneau AK 99801-1132

Dear Representative Parnoll,

On behalf of the Alaska Peace Officers Association, I would like to thank you for introducing House Bill 326 relating to contacts between the defense and crime victims and witnesses, etc. At a recent meeting of the APOA State Board, we unanimously decided to support this piece of legislation. We agree that there have been abuses in the last year since the Alaska Bar Association changed its rules on the recording of victim/witness statements.

In conversation during our meeting, we heard of instances where people from the defense team have purposely led victims/witnesses to believe they were talking with someone from the District Attorney's Office. The phrase "I work with the DA's Office," may not be a technical lie (since the defense people do work with the people in the District Attorney's Office) but it is deliberately misleading. Clearly, victims and witnesses are not drawing the distinction between working with and working for.

The ABA was given the privilege, they abused it, they lose the privilege. It's pretty simple.

We encourage you to call on us when there are teleconference hearings, so that we may testify about the need for this legislation. If you need assistance as you shepherd this bill through the legislative process, please contact me at 451-5316, or our business manager, Joseph Young at 277-0515.

Sincerely

Michael Corkill
State President



City and Borough of Sitka

POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

John H. Newell
Chief of Police

Business 747-3245
Fax 747-1075

February 2, 1996


Representative Sean Parnell
House of Representatives
State Capitol, Juneau, AK 99801-1182

Representative Parnell,

I support HB 314.

Domestic Violence situations continue to be a problem in most of our communities. The proposed changes in HB 314 strengthen the law and reduces the opportunity for the threat of or accomplishment of physical harm to a victim of domestic violence.

Sincerely,


John H. Newell
Chief of Police



City and Borough of Sitka

POLICE DEPARTMENT

304 Lake Street, Room 102 • Sitka, Alaska 99835

John H. Newell
Chief of Police

Business 747-3245
Fax 747-1075

February 2, 1996

Representative Sean Parnell
House of Representatives
State Capitol, Juneau, AK 99801-1182

Representative Parnell,

In support of the Victims Rights Community, I support HB 326. I agree that a disclosure by the defense should be required when contacting crime victims and witnesses.

Sincerely,

John H. Newell
Chief of Police

ALASKA BAR ASSOCIATION
ETHICS COMMITTEE

Dan Winfree, President
Alaska Bar Association
Board of Governors
510 L. St., Suite 602
Box 100279
Anchorage, Alaska 99501

Re: Alaska Bar Association ethics opinion regarding
undisclosed tape recording of conversations with
potential witnesses in criminal cases

Dear Mr. Winfree:

After extended discussion at our April 6, 1995, meeting, the Ethics Committee of the Alaska Bar Association unanimously requests that the Board of Governors reconsider its decision of March 17, 1995, adopting an ethics opinion allowing undisclosed recording of conversations with potential witnesses by criminal defense lawyers and their agents. We seek reconsideration for two reasons: (1) the unusual and problematic procedure by which the proposed opinion was considered by the Board; and (2) the possibility that the Board misinterpreted the Ethics Committee's actions in responding to previous Board direction.

1. The Board's procedure.

The Board's agenda did not serve to alert interested persons that the matter of a proposed opinion on the subject of surreptitious taping would be considered. Yet the Board considered, and ultimately adopted, an opinion which had not been provided to the Ethics Committee for review or comment and which was proposed by a lawyer who had a direct interest in the result. Such a procedure diminishes the value of the scholarship and debate which ensure consistency and quality in the Bar's Ethics Opinions. Indeed, the procedure used by the Board in this instance deprived it of the benefit of the detailed review of the issue conducted by the Ethics Committee over the last several years. The surreptitious tape recording of Alaska citizens by officers of the court is not a matter that should be decided after a brief debate in the midst of a crowded agenda, but deserves the deliberate consideration that the Ethics Committee has given it over the years.

Dan Winfree, President
April 20, 1995
Page 2

2. The Ethics Committee's previous actions.

The Echics Committee's determination in its February 2, 1995, meeting to postpone indefinitely any further consideration for change in the existing opinions was not a decision to avoid the issue. Instead, it was a determination that existing authority stated the right result; no purpose would be served by drafting another opinion.

It cannot be overemphasized that our position on the question of surreptitious recording was reached after many months of debate and detailed examination of the issue. Among the many views presented and rigorously examined and debated were those expressed in the Board's opinion. They were, however, ultimately rejected by the Committee. While the purpose of this request for reconsideration is not to present a detailed exposition of the arguments in opposition to the position that the Board took in its opinion, our many months of consideration of the issues leads us to make the following comments on some of the more striking features of the Board's opinion.

First, the Alaska public will be surprised to learn that persons who happen to witness or be victimized by crime have a reduced expectation of privacy when approached by a criminal defense lawyer or investigator. Whatever the expectations of privacy other States allow their citizens, the Alaska Supreme Court has held that the right of privacy guaranteed by the Alaska Constitution protects Alaskans' expectations that their conversations will not be tape recorded without their consent. State v. Glass, 583 P.2d 872 (Alaska 1978). It is only when a person is under arrest or lawfully stopped by an identified police officer that the Court has held those expectations to be unreasonable. See, Palmer v. State, 604 P.2d 1106 (Alaska 1979) (arrest); City and Borough of Juneau v. Quinto, 684 P.2d 127 (Alaska 1984) (lawful investigatory stop by a uniformed police officer). The Board's opinion would limit citizens' expectations of privacy far more than has the Alaska Supreme Court. This limitation seems particularly inappropriate in light of the recent amendment to the Alaska Constitution that, among other things, recognizes the right of crime victims "to be treated with dignity, respect and fairness during all phases of the criminal and juvenile justice process..." Article I, Sec 24 of the Alaska Constitution.

Moreover, this limitation on the right to privacy makes distinctions that are difficult to explain. How is it that a person who witnessed an event that may result in civil liability retains privacy rights unavailable to the person who witnessed a

Dan Winfree, President
April 20, 1995
Page 3

similar event that results in an investigation of possible criminal charges? ¹

Second, we are unaware of any evidence that the prosecution engages in surreptitious recording of witness interviews. The Committee heard of no instance in which State or federal prosecutors, or their agents, surreptitiously recorded witness interviews as an "investigative tool." To the extent the Board's opinion assumes they do, that assumption is false.² Thus, the Board's limitation on the privacy expectations of witnesses and victims attempts to level a playing field that is not tilted. State prosecutors must obtain judicial authorization in the form of a "Glass Warrant" to surreptitiously record conversations; it is only identified police officers who can surreptitiously record without specific judicial authorization, and only then when a person is under arrest, the subject of a lawful investigative stop or when an officer is responding to a request for immediate assistance in a fast-breaking situation such as a domestic violence call. Federal agents are not known to surreptitiously record witness interviews. This lack of evidence that witness interviews are being surreptitiously recorded by the prosecution was one factor that led the Ethics Committee to maintain the current balance between citizens' privacy expectations and the needs of criminal defense attorneys.

Finally, the Board's opinion does little to enhance truth finding. If, as required by the opinion, the interviewer clearly informs the witness of the interviewer's identity and specific association with the accused, then it would seem rare indeed that

¹ The Board's opinion does not seem to require that a criminal case actually have been filed to allow surreptitious recording of potential witnesses. This, of course, will result in a situation in which one side in a civil case may be able to surreptitiously record witnesses under the guise of preparation for the defense of a potential criminal case while the other side (often the injured party) will not be able to do the same.

² Indeed, under current authority a prosecutor would be engaged in unethical behavior were the prosecutor to surreptitiously record a witness interview as the Board's opinion would now allow defense counsel to do. The "extraordinary circumstances" justifying undisclosed recording by prosecutors or their agents referred to in American Bar Association Formal Opinion No. 337 do not include surreptitious recording of routine witness interviews.

Dan Winfree, President
April 20, 1995
Page 4

a witness so advised would agree to give a statement, but decline to allow it to be taped. On the other hand, particularly because the Board's opinion does not seem to require that the advisement of the witness occur on tape, the opportunity exists for abuse. Intentionally or inadvertently, the interviewer's statements of identity and interest may be unclear to the witness, or be so abbreviated that the witness gains little meaningful information about the true nature of the situation. For example, a witness may think the "P.D." means "police department" when the investigator is from the public defender. Also, while obvious to those working within the system, the term "Office of Public Advocacy" or "OPA" will likely not mean much to the average witness or victim.

Moreover, it must be remembered that the current rules of discovery require that recorded witness statements taken by the prosecution must be given to the defense, particularly when they are exculpatory. See, Rule 16, Alaska Rules of Criminal Procedure; Rule 16, Federal Rules of Criminal Procedure; 18 U.S.C. § 3500 (Jencks Act); Brady v. Maryland, 373 U.S. 83 (1963). In contrast to the rules in civil cases, the defense in criminal cases does not have to disclose recorded statements unless they are used at trial. Thus, recorded statements that may bolster the credibility of prosecution witnesses or impeach the credibility of defense witnesses will likely be suppressed by the defense. While this state of affairs may be constitutionally required in some instances, see, e.g., Scott v. State, 519 P 2d 774 (Alaska 1974) (mandatory disclosure of witness statements violates accused's privilege against self-incrimination), it limits the value of surreptitious recording by the defense as an aid to truth finding.


The Ethics Committee recognizes that reasonable persons can differ on the issues encompassed by the Board's opinion. However, those issues are of great importance not only to lawyers defending criminal suspects, but to the public at large, especially to victims and witnesses who are brought into the justice system. The Committee believes that many of those issues need to be examined in greater depth. Accordingly, the Ethics Committee unanimously requests the Board to reconsider its decision adopting the ethics opinion regarding undisclosed tape recording of conversations with potential witnesses in criminal cases.

Very truly yours,

ALASKA BAR ASSOCIATION ETHICS COMMITTEE


Robert J. Mahoney, Chair

Dan Winfree, President
April 20, 1995
Page 5



Robert C. Bundy

Nelson G. Page

Judge Peter B. Froelich

Kenneth D. Lougee

Richard B. Brown

Thomas A. Matthews

Judge John R. Lohff

Lance C. Parrish

Michael C. Geraghty

Paul L. Dillon

Richard D. Monkman

James J. Benedetto

Brent R. Cole

Richard A. Poulin

Jan Hart DeYoung

John A. Reeder, Jr.

Kirsten A. Tinglum

* ROGER HOLL'S NAME INADVERTENTLY OMITTED
FROM SIGNATURE PAGE. HOWEVER HE WAS CONTACTED
TO SIGN LETTER BUT HAS BEEN APPARENTLY UNABLE
TO COME TO THE BAR OFFICE TO SIGN IT.

V6 4-27-95

STATE OF ALASKA

FISCAL NOTE

BILL NO. 1

No. 7

Bill Version: SCS CS HB 314 (JWP)

(S) Publish Date: 4/22/96

1996 LEGISLATIVE SESSION

Revision Date: 4/20/96 Dept. Affected: Public Safety
 Title: Domestic Violence Prevention and Victim Protection Act of 1996 BRU: CDVSA
 Component: CDVSA
 Sponsor: Rep. Parnell
 Requestor: S. Judiciary COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	50.0	60.0	30.0	30.0	30.0	30.0
TRAVEL	5.0	5.0	5.0	5.0	5.0	5.0
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	55.0	65.0	35.0	35.0	35.0	35.0
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

	1 (10 months)	1	0	0	0	0
FULL-TIME						
PART-TIME	0	0	.5	.5	.5	.5
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary.) See attached.

Prepared By: Jayne E. Anderson Phone: 907-465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 4-20-96
 Approved by Commissioner: Dee Smith Date: 4/22/96
 Agency: Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

State of Alaska
1996 Legislative Session

ANALYSIS CONTINUED:

The cost to the Council for implementing the Domestic Violence Prevention and Victim Protection Act of 1996 will total \$55.0 for the first fiscal year.

A project coordinator to oversee the implementation of batterers' standards as developed by the Council, beginning in September, 1996. Range 18 position with fringe for 10 months = \$50.0

10 on-site trips to evaluate compliance of batterers' programs with standards.
\$500/trip x 10 = \$5.0

This fiscal impact is based upon the following assumptions:

Implementation of the Council's Batterers Intervention Program Standards. The Council has been concerned over the past several years with the growing inconsistency between programs available for domestic violence perpetrators. Within the domestic violence movement it is understood that the only effective domestic violence offender programs must be based on a commitment to ensuring victim safety. They must hold offenders accountable for their violence, regardless of other life issues. Because this philosophy is not incorporated by many programs in Alaska, the Council worked with victim and offender service providers to develop standards for batterer's intervention programs. These standards were approved in March, 1995. The standards, as they currently exist, meet the guidelines for standards proposed within the model code. At this time, only the two programs funded in part by the Council have any requirement to abide by these standards.

The current bill requires the Court and Corrections to use batterers' programs that meet the standards established by the Council. A key element to the effectiveness of batterers' programs will be the implementation of the standards for state-wide consistency. The Council will hire a range 18 project coordinator to oversee the standardization of batterers' programs. Based on information from victim services, the Council estimates that 20-25 programs currently exist. A process will be established to review compliance with the standards that will consist of policy and procedure review and on-site evaluation. The Council will produce a list of appropriate programs for use by Corrections and the court system for ordering offenders into programs. The Council estimates that the first two years of this component will entail greater oversight in implementing the standards and establishing the core group of standardized programs. Beginning in the third year the project will enter a maintenance level of oversight, thereby reducing the need for a full-time coordinator.

272

FISCAL NOTE

No. 6

Bill Version: SCSIS AB 314 LWD

I (S) Publish Date: 4/22/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: 04/22/96

Dept. Affected: Alaska Court System

Title: Domestic violence

BRU: Trial Courts

Component: _____

Sponsor: Reps. Parnell, Robinson, Bunde, Elton...

Requestor: _____

COMPONENT SERIAL NO. 788

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	66.7	66.7	66.7	66.7	66.7	66.7
TRAVEL	25.7	25.7	25.7	25.7	25.7	25.7
CONTRACTUAL	0.9					
SUPPLIES	7.2					
EQUIPMENT	8.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	108.5	92.4	92.4	92.4	92.4	92.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	108.5	92.4	92.4	92.4	92.4	92.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	108.5	92.4	92.4	92.4	92.4	92.4

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time	6.0	6.0	6.0	6.0	6.0	6.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel
Agency: Alaska Court System

Phone: 264-8228
Date: 04/22/96

Approved by: Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 04/22/96

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Alaska Court System
Fiscal Analysis
SCS CSHB 314 (JUD)

Personal Services

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
<u>Sections 8, 11 & 29 (In-Person Hearing)</u>			
Superior Court Judge Pro Tem, 50% vested, PPT	\$5,737	\$3,537	\$9,274
In-Court Clerk, range 12A, PPT	2,725	1,236	3,961
(25% of current criminal filings will be affected by the bill, 1/2 of these will require a 15 minute hearing)			
<u>Section 33 (Extended Orders)</u>			
Standing Master, range 24A, PPT	17,583	6,137	23,720
In-Court Clerk, range 12A, PPT	7,813	3,544	11,357
Court Clerk II, range 10A, PPT	554	265	819
(25% of current criminal filings will result in extended orders, 1/2 will require an additional 30 minutes of hearing)			
<u>Section 33 (Peace Officer Request)</u>			
Court Clerk II, range 10A, PPT	308	147	455
(Expecting 100 additional case filings, which will require 15 minutes of clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders)</u>			
Standing Master, range 24A, PPT	2,816	983	3,799
In-Court Clerk, range 12A, PPT	1,251	568	1,819
Court Clerk II, range 10A, PPT	1,108	530	1,638
(Expecting 8% increase in case filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Prohibit Mutual Orders (Respondent's Petition))</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
Court Clerk II, range 10A, PPT	554	265	819
(Expecting 50% increase in orders on increased filings, which will require 15 minutes of courtroom time and clerical processing time)			
<u>Section 33 (Forms and Clerical Assistance)</u>			
Court Clerk II, range 10A, PPT	2,303	1,100	3,403
(Expecting additional clerical assistance on 25% of new filings, which will require 15 minutes of clerical time)			
<u>Section 49 (Heightened Scrutiny)</u>			
Standing Master, range 24A, PPT	1,408	491	1,899
In-Court Clerk, range 12A, PPT	626	284	910
(10% of current dissolutions will require a 30 minute hearing)			
Estimated Total Personal Services			66,682

Travel

Section 33 (Forms and Clerical Assistance)

This legislation will require a complete revision of all domestic violence forms and instructions. The court Forms Committee will have to meet twice to accomplish the revision of the 12 existing forms. These forms are used in all superior and district courts.

5,400

This legislation requires continuing education of judicial officers and staff. The court will lengthen existing annual training conferences for judges, magistrates and clerks to accomplish this requirement. The court will use experts to conduct annual training conferences.

20,300

Estimated Total Travel

25,700

Alaska Court System
Fiscal Analysis
SCS CSHB 314 (JUD)

Contractual (one-time)

Postage for mailing new forms and instructions \$900

Supplies (one-time cost)

Paper and duplication supplies for new forms and instructions 7,200

Equipment (one-time cost)

Section 33 (Peace Officer Request)

20 portable tape recorders for hearings 8,000

Estimated Total Cost

\$108,482

FISCAL NOTE

No. 5

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: SCS CS HB 314
(S) Publish Date: 4/22/96

Revision Date: _____
Title: "An Act relating to domestic violence..."
Sponsor: Representatives Parnell, Robinson, et. al.
Requestor: Senate Judiciary

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	191.6	191.6	191.6	191.6	191.6	191.6
TRAVEL						
CONTRACTUAL	11.4	11.4	11.4	11.4	11.4	11.4
SUPPLIES	3.0	3.0	3.0	3.0	3.0	3.0
EQUIPMENT	10.8	10.8	10.8	10.8	10.8	10.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	216.8	216.8	216.8	216.8	216.8	216.8

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	216.8	216.8	216.8	216.8	216.8	216.8
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	216.8	216.8	216.8	216.8	216.8	216.8

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME	3.0	3.0	3.0	3.0	3.0	3.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Adoption of the revised version of HB 314 will have a significant impact on the Office of Public Advocacy's guardian ad litem responsibilities. The Alaska Court System reported that 8,692 domestic relation cases were heard in FY 95 and that 38% or 3,303 were domestic violence filings.

The bill is designed to provide greater assistance to victims of domestic violence, remove obstacles to the provision of greater protection to such victims, and dramatically lengthen the time that domestic violence orders remain in effect. It is likely that the bill's supporters are correct in their assessment that more victims will avail themselves of this legal opportunity for protection and that domestic violence filings will increase. Further, because of the length of (continued)

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Bover
Agency: Administration

Date: 4/19/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314

ANALYSIS: (continued)

time the orders remain in effect, there is little question that some petitioners will utilize these proceedings as an initial step in the dissolution of a marital or other relationship. Judges in such proceedings will make decisions regarding both custody and visitation. These decisions will have a much longer term impact on children than is possible under current law. It is inevitable that judicial officers will look to OPA guardians ad litem as independent investigators whose purpose will be to develop facts to inform judicial rulings that impact children. This is especially true where neither party is represented by counsel.

While it is not possible to project with any precision, the exact caseload increase that OPA will experience, it is absolutely clear that at least two additional guardians ad litem in Anchorage and one additional guardian ad litem in Fairbanks will be essential in order to afford even minimal advocacy to children in households where domestic violence is proven. Even if only 20% of the FY 95 caseload requires the appointment of a guardian ad litem, some 661 cases will be added to OPA's current caseload.

This estimate is conservative for four reasons:

1. The estimate assumes no significant increase in areas outside major population centers in the first year after enactment. Therefore, no contractual funds are requested to pay OPA contract guardians ad litem in those communities.
2. Domestic violence orders issued under the new law will remain in effect for one year. Judicial officers are far more likely to appoint guardians ad litem in order to obtain independent, objective information regarding the children's interest in custody and visitation during this much longer period.
3. The filing of domestic violence petitions will significantly increase. Issues regarding the departure of the offender, custody, visitation and child support can be addressed far more expeditiously than under current domestic relations law. More victims will avail themselves of this opportunity for a much quicker legal remedy.
4. The fiscal note assumes that the legislature will insert an indigency requirement for the appointment of a guardian ad litem in the new statute. Current law requires the appointment of an OPA guardian ad litem only "if the parties are indigent or temporarily without funds." AS 25.24.310(c).

Such a clause would be added to Section 64 of the new bill if the legislature determines that only indigent parties should receive a guardian ad litem paid by the public. Such a provision should be considered because a significant number of parties involved in domestic violence petitions do have the means to pay a private guardian ad litem appointed by the court.

ANALYSIS: (continued)

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314

Personal Services

Anchorage

Associate Attorney II
Salary & Benefits \$ 61.2

Associate Attorney II
Salary & Benefits 61.2

Fairbanks

Associate Attorney II
Salary & Benefits 69.2

Subtotal Personal Services 191.6

Contractual

Office space for three new positions. 11.4

Supplies

Stationary, library and office supplies for three new positions. 3.0

Equipment

Office furniture and equipment for three new professional positions. 10.8

Total \$216.8

Position Title Associate Attorney II		No. of Positions 2	Range / Step 19/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0	Location EBA-Anchorage		Election District 8
TYPE OF EXPENDITURE		AMOUNT		Justification The passage of this legislation will result in an impact that cannot be absorbed by the current staff. The addition of two new associate attorney positions is necessary.
Salary	88.6	88.6		
Benefits	33.8	33.8		
Premium Pay				
Other				
Total Personal Services	122.4	122.4		
Travel				
Contractual		6.8		
Commodities		2.0		
Equipment		7.2		
Other				
Total Cost		138.4		
FUNDING SOURCE FOR TOTAL COST				
Federal Receipts	1002			
G.F. Match	1003			
General Fund	1004	138.4		
I-A Receipts	1007			
CIP Receipts	1061			
Other				

Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 97

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 314



Revised Date: _____

Position Title Associate Attorney II			No. of Positions 1	Range / Step 19/A	Barg. Unit PX
Time Status PFT	Staff Months 12.0		Location JBA-Fairbanks	Election District	
TYPE OF EXPENDITURE		AMOUNT	Justification The passage of this legislation will result in an impact that cannot be absorbed by current staffing levels. It will be necessary to add a new associate attorney position in the Fairbanks office to handle the additional cases.		
Salary	50.6	50.6			
Benefits	18.6	18.6			
Premium Pay					
Other					
Total Personal Services	69.2	69.2			
Travel					
Contractual		4.6			
Commodities		1.0			
Equipment		3.6			
Other					
Total Cost		78.4			
FUNDING SOURCE FOR TOTAL COST					
Federal Receipts	1002				
G.F. Match	1003				
General Fund	1004	78.4			
I-A Receipts	1007				
CIP Receipts	1061				
Other					

Request For New Position

AGENCY ADMINISTRATION
 BRU OFFICE OF PUBLIC ADVOCACY
 COMPONENT OFFICE OF PUBLIC ADVOCACY

FY 97

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. SCS CSIB 314



Revised Date: _____

FISCAL NOTE

No. 4

Bill Version: CSHB 314(JUD)

(H) Publish Date: 2/2/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to domestic violence and to crime victims and witnesses"
Sponsor: Rep. Parnell
Requestor: (H) JUD

Dept. Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Public Defender Agency.

Prepared by: John Salemi, Director
Division: Public Defender Agency

Phone: 264-4400
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 2/2/96

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FISCAL NOTE

No. 3

Bill Version: CSHB 314(JUD)

(H) Publish Date: 2/2/96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to domestic violence and to crime victims and witnesses..."
Sponsor: Rep. Pamell
Requestor: (H) JUD

Dept. Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

CHANGE IN REVENUES ()	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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 1/31/96

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FISCAL NOTE

STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: An Act relating to the crime of violating a BRU: Trial Courts
domestic violence restraining order. Component: _____
 Sponsor: Reps. Parnell, Robinson, Bunde, Elton, Tooney
 Requestor: House Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

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

Estimate of any current year (FY 96) cost: None

Positions

Full-Time						
Part-Time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel
 Agency: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director
 Agency: Alaska Court System

Phone: 264-8228
 Date: 01/24/96

Date: 01/24/96

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FISCAL NOTE

NO. 1
 Bill Version: CSHB 314(JUD)
 (H) Publish Date: 2/2/96

STATE OF ALASKA
 1996 LEGISLATIVE SESSION

Revision Date: 1/24/96 Dept. Affected: Department of Law
 Title: "...relating to domestic violence...crime victims..." BRU: Criminal Division
 witnesses...amending...Rule of Evidence 613." Component: Criminal Division
 Sponsor: Representative Parnell
 Requester: Representative Parnell COMPONENT SERIAL NO. 2085

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.56.740(a) so that the criminal prohibitions contained in this statute coincide with the civil prohibitions contained in a civil domestic violence restraining order issued under AS 23.35.010 or AS 23.35.020. Thus the bill clarifies the interplay between the civil and criminal laws dealing with domestic violence restraining orders, making these laws easier to enforce.

The bill also amends AS 12.61.120 to require that if a defendant or a person acting on behalf of a defendant wishes to make a recording of statements of the victim of an offense, or of a witness, the consent of the victim or witness must be obtained before a recording begins. The bill will not have a fiscal impact for the Department of Law.

Richard I. Peques

Prepared by: Richard I. Peques, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/24/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/24/96
 Agency: Department of Law

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SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/12/96

FURTHER:

2
JM

~~Date of 5-Day Notice:~~ _____
 (in accordance with Uniform Rule 29)

DATE TURNED INTO OFFICE: 4-19-96

The Judiciary Committee considered CS FOR HOUSE BILL NO. 314(JUD) am

Relating to domestic violence and to crime victims and witnesses; and amending Rule 613, Alaska Rules of Evidence.

En's

and recommends:

- be replaced with S CS CS 14 B 314 (JUD)
- adopt previous CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR# _____

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>fly Ellis Amend</i>			
<i>Lyle Green</i>	<input type="checkbox"/>				
<i>Chair: [Signature]</i>	<input checked="" type="checkbox"/>	<i>Chair:</i>			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Admin./Public Advocacy</i>	<i>4/19/96</i>		<i>216.8</i>
<i>Courts</i>	<i>4/29/96</i>		<i>108.5</i>

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

HB

315

HFIN

FILE

K USE COMMITTEE REPORT

(11)

Date Referred: April 20, 1995

FURTHER REFERRALS:

Date of Committee Action: 4/21/95 pm

The FINANCE Committee considered:

HB 315

HOUSE BILL NO. 315

FINANCING TECHNOLOGICAL PROJECTS

"An Act relating to the financing of technological developments by public corporations of the state; and relating to the financing of the Kodiak launch complex, the Fairbanks satellite ground station space park, and a low-rank coal water fuel technology project."

recommends it be replaced with the following committee substitute CS HB 315 (FIN) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____ APPROVES PREVIOUS: (Dept/Date) _____
 fiscal note(s) _____ fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) DCED 4/20/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Richard Foster</i>	FOSTER	X			
<i>Mark Hanley</i>	Hanley			X	
<i>Eden Mulder</i>	Mulder	X			
<i>Terre Martin</i>	Martin		X		
<i>Ben Grussendorf</i>	Grussendorf			X	
<i>Tia Kohnne</i>	Kohnne			X	
<i>Sean Parnell</i>	Parnell	X			

CO-CHAIR'S SIGNATURE *Mark Hanley* *Richard Foster*
Hanley Foster

FISCAL NOTE

(No. 1)
 Bill Version: HB 315
 (H) Publish Date: 4/20/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: April 19, 1995 Department: Commerce and Economic Development
 Title: ...financing of technological developments by public BRU: AK Industrial Development & Export Auth
corporations of the state; and relating to the financing of the Kodiak... Component: AK Industrial Development & Export Auth
 Sponsor: House Rules
 Requestor: Governor COMPONENT SERIAL NO. 1234

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES	
--------------------	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ _____

POSITIONS

FULL-TIME	
PART-TIME	
TEMPORARY	

ANALYSIS: (Attach a separate page if necessary)

Prepared by: William R. Snell, Executive Director Phone: 561-8050
 Division: AK Industrial Development & Export Authority Date: April 19, 1995
 Approved by Commissioner: William L. Hensley *[Signature]* Date: April 19, 1995
 Agency: Commerce and Economic Development

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9-LS0937AK
Chenoweth
4/3/95

adopted 4/12/95

CS FOR HOUSE BILL NO. 269()

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES IVAN, Bunde, Foster, Williams

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to credits against certain taxes for contributions to certain public
2 educational radio and television networks and stations and to endowments for
3 public educational radio and television networks and stations, increasing the
4 amounts that may be claimed as credits against certain state taxes, and precluding
5 claims of the contributions as both credits and deductions against the taxes; and
6 providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. PURPOSE. This Act extends the credits authorized by ch. 58, SLA 1987,
9 ch. 71, SLA 1991, and ch. 21, SLA 1994, against each of the following state taxes for
10 contributions made to instate public educational radio and television networks and stations and
11 to endowments established to benefit those public educational radio and television stations:

12 (1) the insurance premium tax (AS 21.09.210) and the tax on title insurance
13 premiums (AS 21.66.110);

- 1 (2) Alaska Net Income Tax (AS 43.20);
2 (3) Oil and Gas Properties Production Tax (AS 43.55);
3 (4) Oil and Gas Exploration, Production, and Pipeline Transportation Property
4 Tax (AS 43.56);
5 (5) Mining License Tax (AS 43.65);
6 (6) Fisheries Taxes (AS 43.75).

7 * Sec. 2. AS 21.89.070(a) is amended to read:

8 (a) Subject to (c) of this section, a [A] taxpayer is allowed as a credit against
9 the tax due under AS 21.09.210 or AS 21.66.110 the taxpayer's [FOR] cash
10 contributions for direct instruction, research, and educational support purposes, including
11 library and museum acquisitions, and contributions to endowment, that are accepted by
12 a nonprofit, public or private, Alaska two-year or four-year college or university
13 accredited by a regional accreditation association or that are accepted by an Alaska
14 university foundation that supports a university or college that could receive a
15 contribution for which a taxpayer may obtain a credit under this section, and the
16 taxpayer's cash contributions accepted by a nonprofit, noncommercial public Alaska
17 educational radio or television network or station and contributions to endowments
18 established to benefit those networks and stations. The amount of the credit is the
19 lesser of

20 (1) an amount equal to

- 21 (A) 50 percent of contributions of not more than \$100,000; and
22 (B) 100 percent of the next \$400,000 [\$100,000] of contributions;

23 or

24 (2) 50 percent of the taxpayer's tax liability under this title.

25 * Sec. 3. AS 21.89.070(c) is amended to read:

26 (c) In each tax year, contributions [A CONTRIBUTION] claimed as a credit
27 under this section

- 28 (1) may not be claimed as a credit under more than one provision of this
29 title; and
30 (2) may not, when combined with credits taken during the taxpayer's tax
31 year under AS 43.20.014, AS 43.55.019, AS 43.56.018, AS 43.65.018, or AS 43.75.018,
32 exceed \$450,000 [\$150,000].

1 * Sec. 4. AS 43.20.014(a) is amended to read:

2 (a) Subject to (d) of this section, for [FOR] cash contributions accepted for
3 direct instruction, research, and educational support purposes, including library and
4 museum acquisitions, and contributions to endowment, by an Alaska university
5 foundation or by a nonprofit, public or private, Alaska two-year or four-year college
6 accredited by a regional accreditation association, and for contributions accepted by
7 a nonprofit, noncommercial public Alaska educational radio or television network
8 or station and contributions to endowments established to benefit those stations.

9 a taxpayer is allowed as a credit against the tax due under this chapter

10 (1) 50 percent of contributions of not more than \$100,000; and

11 (2) 100 percent of the next \$400,000 [\$100,000] of contributions.

12 * Sec. 5. AS 43.20.014(d) is amended to read:

13 (d) In each tax year, contributions [A CONTRIBUTION] claimed as a credit
14 under this section

15 (1) may not be claimed as a credit under another provision of this title;

16 (2) may not also be allowed as a deduction [UNDER 26 U.S.C. 170]
17 against the tax imposed by this chapter or as a deduction against another tax
18 imposed by this title; and

19 (3) may not, when combined with credits taken during the taxpayer's
20 tax year under AS 21.89.070, AS 43.55.019, AS 43.56.018, AS 43.65.018, or
21 AS 43.75.018, exceed \$450,000 [\$150,000].

22 * Sec. 6. AS 43.55.019(a) is amended to read:

23 (a) Subject to (d) of this section, for [FOR] cash contributions accepted for
24 direct instruction, research, and educational support purposes, including library and
25 museum acquisitions, and contributions to endowment, by an Alaska university
26 foundation or by a nonprofit, public or private, Alaska two-year or four-year college
27 accredited by a regional accreditation association, and for contributions accepted by
28 a nonprofit, noncommercial public Alaska educational radio or television network
29 or station and contributions to endowments established to benefit those stations.

30 a producer of oil or gas is allowed as a credit against the tax due under this chapter

31 (1) 50 percent of contributions of not more than \$100,000; and

1 (2) 100 percent of the next \$400,000 [\$100,000] of contributions.

2 * Sec. 7. AS 43.55.019(d) is amended to read:

3 (d) In each tax year, contributions [A CONTRIBUTION] claimed as a credit
4 under this section may not

5 (1) be claimed as a credit under another provision of this title;

6 (2) be allowed as a deduction against the tax imposed by this
7 chapter or as a deduction against another tax imposed by this title; and

8 (3) [(2)] when combined with credits taken during the taxpayer's tax
9 year under AS 21.89.070, AS 43.20.014, AS 43.56.018, AS 43.65.018, or
10 AS 43.75.018, exceed \$450,000 [\$150,000].

11 * Sec. 8. AS 43.56.018(a) is amended to read:

12 (a) Subject to (d) of this section, for [FOR] cash contributions accepted for
13 direct instruction, research, and educational support purposes, including library and
14 museum acquisitions, and contributions to endowment, by an Alaska university
15 foundation or by a nonprofit, public or private, Alaska two-year or four-year college
16 accredited by a regional accreditation association, and for contributions accepted by
17 a nonprofit, noncommercial public Alaska educational radio or television network
18 or station and contributions to endowments established to benefit those stations,
19 the owner of property taxable under this chapter is allowed as a credit against the tax
20 due under this chapter

21 (1) 50 percent of contributions of not more than \$100,000; and

22 (2) 100 percent of the next \$400,000 [\$100,000] of contributions.

23 * Sec. 9. AS 43.56.018(d) is amended to read:

24 (d) In each tax year, contributions [A CONTRIBUTION] claimed as a credit
25 under this section may not

26 (1) be claimed as a credit under another provision of this title;

27 (2) be allowed as a deduction against the tax imposed by this
28 chapter or as a deduction against another tax imposed by this title; and

29 (3) [(2)] when combined with credits taken during the taxpayer's tax
30 year under AS 21.89.070, AS 43.20.014, AS 43.55.019, AS 43.65.018, or
31 AS 43.75.018, exceed \$450,000 [\$150,000].