

919

HJ

HB 392

Representative Brian Rogers
January 28, 1980
Page No. 2

limited experience with, this type of legislation; New Hampshire, Utah, and Washington passed their domestic violence bills in 1979, while Massachusetts preceded these states by one year. Washington's legislation has been in effect for less than five months.

5. Despite the implementation difficulties, most persons I contacted, particularly those associated with domestic violence assistance organizations, felt that the legislation is benefiting domestic violence victims to some extent, and that the laws will become more effective over time as familiarity with their provisions increases.
6. Certain provisions and proposed amendments in other states may deserve consideration as possible amendments to HB 392.

Massachusetts

I obtained the most complete information from Massachusetts, and because HB 392 was modeled after the Massachusetts legislation, it is probably the best example for your purposes. My major contact was an attorney with the Massachusetts Coalition of Battered Women's Service Providers, Chris Butler. She has been conducting a monitoring program on the Massachusetts domestic violence legislation, and has found that enforcement of the law has been inconsistent. Some police departments have been very thorough in reading domestic violence victims their rights, providing transportation to a shelter or hospital, and fulfilling the other requirements of the law. However, Ms. Butler stated that the effectiveness of the law is dependent primarily on the attitudes of supervising officers in each department, and in most cities, compliance with the requirements of the law is poor. She has studied the intake forms of various women's shelter organizations and determined that in most cases, women were not read their rights or offered transportation by police officers responding to domestic violence calls.

The Boston Police Department was mentioned by Ms. Butler as one which was

Representative Brian Rogers
January 28, 1980
Page No. 3

not complying with the law. I checked with the department and was told that the officers were carrying out their obligations and that the department had no objections or problems with the law.

Ms. Butler also noted that police have not been staying with domestic violence victims for any length of time, but her organization realizes that extended stays are often not a viable option and is encouraging police to give victims referrals to shelters and to stay with victims while these calls are made. Apparently, this approach has been fairly well received by some departments. On the whole, Ms. Butler said that although the impact of the law on most communities has been slight, there is a growing awareness of the law's provisions among domestic violence victims.

A number of amendments to the Massachusetts domestic violence law have been proposed which may be relevant to HB 392. These amendments would:

1. Require hand delivery by the police of a court summons document describing action against offender when an order requiring financial support of victim is issued. Under current law, the offender is only given notice of the order, without being informed in detail of the court action against him. In Massachusetts, simple notice of the order apparently does not meet legal requirements for monetary compensation.
2. Change the language in the section providing for a hearing for the defendant when a court order is issued. This amendment is important because HB 392 contains almost identical language, and Massachusetts judges have been misinterpreting the intent of the hearing section. The drafters of the Massachusetts law intended that the defendant should be given an opportunity for a hearing, but judges have read the law to require mandatory hearings. Ms. Butler stated that over 50 percent of the time the defendants do not show up at the hearings, and that the misinterpretation is causing a substantial burden on both the courts and on domestic violence victims. The amendment would change the language, the equivalent of which is found in HB 392, Page Four, Line 27, to read that the court shall "notify the defendant that he has five days

Representative Brian Rogers

January 28, 1980

Page No. 4

to file a motion objecting to continuance of said orders".

3. Clarify the law by stating that each of the courts having jurisdiction under the law are to follow their own court rules in handling cases under the law. In both Massachusetts law and HB 392, domestic violence victims can obtain court orders from more than one court, and it was unclear to some Massachusetts judges which rules were to be followed.
4. Provide that court orders directing the defendant to vacate the residence can only be issued against an adult.

Copies of these amendments are being sent by Ms. Butler. Please contact me if you would like to review them when they arrive.

Utah

The staff of the Utah Criminal Justice Planning Agency indicated that the major problem with the Utah domestic violence legislation is that no funding was provided to law enforcement agencies for training in carrying out the requirements of the law. It has therefore been difficult to educate police officers about their new obligations under the domestic violence law.

A representative of the Utah Coalition for Aid to Battered Women also commented on the need for police training and education. However, she had a generally positive outlook on the implementation of the law and felt that considering the law was only eight months old, most police departments were making an effort to enforce the law. She did note that, as in Massachusetts, there was considerable variation on this count from city to city.

Law enforcement agencies were involved in the drafting of the domestic violence legislation in Utah, which may explain the relatively high degree of cooperation there. One provision which these agencies included in the legislation was a statement that police officers are not liable for their actions in providing assistance to domestic violence victims.

Washington

The Washington domestic violence law is not as strict as those of Massachusetts and Utah. It requires only that police officers notify victims of their right to press charges, that they may provide transportation, and that they take reports of all domestic violence cases.

Representative Brian Rogers
January 28, 1980
Page No. 5

Members of the Division of Criminal Justice stated that the major difficulties experienced in implementing the Washington domestic violence law have been lack of funding, uncertain interpretation of some of the provisions of the law, and the lack of shelter facilities in the rural areas of the state. The law does include an appropriation of one million dollars, but only for establishment of shelters and data gathering on the domestic violence problem. The contacts believed that the provisions of the law regarding domestic violence victims were being met for the most part in the more urban areas, but that the lack of shelters in rural areas and the greater difficulty of educating small-town police departments about the law made enforcement less consistent in these areas. Alaska probably has shelters in more of the smaller communities than Washington does, so this problem may not be so important here.

I also contacted an attorney with Evergreen Legal Services who was involved in the drafting of the legislation and has been monitoring its results. She indicated that enforcement, even in the larger cities, is still sporadic, and her firm has made it a practice to contact police departments in cases where domestic violence victims are not advised of their rights or reports are not taken. Again, she felt that the law would probably become more effective over time, and that it was of significant value to domestic violence victims.

Summary

New Hampshire, Massachusetts, Utah, and Washington have recently enacted domestic violence legislation extending rights to domestic violence victims similar to the rights in HB 392. Although most persons contacted during this research thought the legislation in their states was having a positive effect on the domestic violence problem, the following problems in implementing the legislation were reported:

1. Enforcement of the domestic violence laws varies greatly from community to community and is largely dependent on the cooperation of individual police departments.
2. Current police training on the requirements of the legislation is insufficient. Funding was not provided in the domestic violence legislation for this purpose.

Representative Brian Rogers
January 28, 1980
Page No. 6

3. Some provisions of the Massachusetts and Washington law are unclear and are subject to misinterpretation by police and the courts.
4. The domestic violence legislation in Washington has been less effective in rural areas because of the lack of shelter facilities to which police can take victims, and because the police education process is slower than in urban areas.

JK/bf

MEMORANDUM

State of Alaska

TO: Lt. Colonel James D. Vaden
Deputy Director
Alaska State Troopers

DATE: February 1, 1980

FILE NO:

TELEPHONE NO:

FROM: Captain Walter J. Gilmore *WJG*
Commander
Support Services Bureau

SUBJECT: Sub-House Bill 392

Pursuant to instructions to contact the Seattle Police Department for impact of their past year's legislation concerning Domestic Violence and a review of House Bill 392, contact was made with Major Paul Knapp Criminal Investigation Division, who summarized the impact as, additional paperwork without additional funds; with a complete change of previous concepts, such as mediation and arbitration of domestic matters to keep them out of court, and legislation specifically laying out mechanics insuring court action.

The impact is not measured at this time for lack of data, but the Prosecutor's Office has had to change their policy, however, they are still relying on the screening by police to substantiate probable cause. (Major Knapp's letter attached)

The material provided on Washington State Law, sub-House Bill 554, May 1979, deals totally with shelters. (see attached)

Sub-House Bill 438 passed Washington Legislature April 1979. It is primarily a paperwork bill which advises the police which criminal statutes are to be recorded as domestic.

Section three requires additional training for police officers on domestic violence law and then details action to be taken by the police officer.

1. Enforce Laws, Protect Complainants.
2. Arrest with Probable Cause.
3. Take a Complete Offense Report.
4. Offer, Arrange or Facilitate Transportation.
5. Send ALL Offense Reports to Prosecutor on ALL Incidents of Domestic Violence.
6. Develop a Computer System of Retrieval.

Section four orders court priority of cases.

Section five limits movement of convicted persons.

7. A police officer may NOT be held liable for civil action based on enforcement action taken with regard to this section.

Alaska House Bill 392 lists specific tasks for the officer to do in every situation.

1. Stay on the scene until all danger passes.
2. Provide transportation to nearest health provider or hospital.
3. Assist the victim in moving.
4. Provide legal advise concerning all possible options which might be afforded by law.
5. Arrest the assailant.
 - a. on view
 - b. on probable cause
6. The officer is then responsible for stating to the complainant, "you have the right to demand the police officer to do the following",
 - a. stay as long as you wish
 - b. take you to the hospital or health provider
 - c. take you to a safe place
 - d. tell you how to contact the nearest shelter

The officer is then to explain five options that the COURT will be ordered to DO.

Then the proposal lays out specific requirements for the courts to grant under order, for police:

1. Restrain the assailant.
2. Tell him to get out of the house.
3. No contact.

Then within three days have a hearing.

The court is to make forms so it is not necessary for attorneys to file for court orders.

Section 09.55.670 says the court will notify law enforcement agencies of court orders and that "law enforcement agencies shall establish procedures to inform all their police officers of the existence and terms of orders.

Section 09.55.680 provides for training of police officers to comply with the provisions of this law.

Section 09.55.690 provides criminal penalties for violations of court orders and that the police will arrest for violation of those orders. (this is absolutely new)

Section 18.55.30, preference for veterans and victims of domestic violence, is a housing finance section.

Alaska Criminal Law allows for probable cause arrests in domestic situations.

Many areas need shelter networks to provide both emergency and longer term support for victims of domestic violence.

CONCLUSION:

Washington Legislature has created a large amount of paperwork, more cost and no measureable results in reduction of domestic violence, but is limited in scope to the areas.

House Bill 392 is a conglomeration of attempts to Legislate, police officer response, court response, housing, referral and finance, and hold the police officer responsible for carrying out the entire program by training the officer in this bill.

Almost every aspect of this bill is either too broad and does not allow for the latitude of Statewide enforcement, or it is so narrow, that it precludes judgement at a specific violence situation.

WJG:pa

Attachment



Alaska State Legislature

House of Representatives

Committee on Judiciary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House
Judiciary Committee

FROM: Margaret W. Berck, Staff *MWB*

DATE: January 29, 1980

RE: Proposed CS for HB 392

The attached bill reflects certain amendments the Committee desires to consider in its Committee Substitute for HB 392. Perhaps the most significant amendment occurs on the last page of the bill and deals with amending Title 12's provision on the arresting authority of peace officers. The bill as amended would mandate that peace officers arrest an individual who violates the court order by committing an act, which by virtue of the order, constitutes a misdemeanor. This mandatory arrest would be required whether or not the offense occurred in the presence of the peace officer. Under existing law (the new Criminal Code), a peace officer may arrest an individual who is thought to have committed a misdemeanor only in two circumstances: one, for the misdemeanor that occurred in his presence, and two, for the domestic assault of the third degree that occurred out of his presence. In either case, the peace officer must have reason to believe that the offense occurred and the arrested person committed it. Since the violation of the court order might not involve an assault in the third degree, but rather, for example, merely a phone call to the victim, if the Committee desires the person enjoined by the order to be arrested for such type of conduct occurring out of the officer's presence, then the existing arresting authority of the peace officer must be enlarged.

Should the Committee decide not to enlarge the existing arrest authority, this may be accomplished by deleting the section of the attached bill that amends Title 12 (on last page) and clarifying the language in subsection (b) of section 690 (see page 6, lines 12-14 of attached bill). To clarify that subsection I would suggest the following language be inserted for that entire subsection: "(b) A

peace officer shall, consistent with AS 12.25.030, arrest a person who violates an order described in AS 09.55.660(a)(1), (2) or (3) if the order is in full force and effect." The practical effect of this alternative is as follows. A peace officer would be required to arrest a person who is enjoined by an order for all violations of the order occurring in the presence of the peace officer and for those acts which would constitute assault in the third degree regardless of whether such conduct occurred in the presence of the peace officer.

It should be noted that the entire discussion above pertains to warrantless arrests. To date Alaska law provides only two exceptions to the common law warrantless arrest authority: one, for the OMVI situation, and two, for the domestic assault in the third degree.

1 IN THE HOUSE

2 CS for HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
12 has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim
13 of domestic violence, the officer shall use all reasonable means to
14 prevent further domestic violence and to assure the safety of the
15 victim, including

16 (1) remaining on the scene of the domestic violence as long
17 *as the officer believes that* there would be a danger to the physical safety of the victim without
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical
20 treatment, ~~if necessitated by an assault~~ including transportation to the
21 emergency room of the nearest hospital or to the nearest health
22 provider, *if the peace officer believes it is necessary;*

23 (3) assisting the victim in removing to a safe place nearby,
24 or to the nearest facility offering shelter to victims of domestic
25 violence;

26 (4) giving the victim immediate notice of rights provided
27 under this section and of the existence of the nearest facility offering
28 shelter to victims of domestic violence;

29 (5) arresting the assailant *As provided in AS 12.25.030.*

1 ~~(A) if the peace officer has reasonable cause to believe~~
2 ~~that the assailant has committed domestic violence which is a~~
3 ~~felony,~~

4 ~~(B) if domestic violence which is a misdemeanor is~~
5 ~~committed in his presence, or~~

6 ~~(C) under the circumstances set out in AS 12.25.030(b).~~

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall ~~read and~~ give
9 to the victim/ *AND will read to the victim if circumstances allow:*

10 "As a victim of domestic violence you ~~have the right~~
11 *MAY REQUEST* ~~under law to demand~~ that the officer present do the following
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;
14 (2) take you to the nearest hospital or health provider
15 if you need medical care~~X~~.

16
17 As a victim of domestic violence you HAVE the
18 right to demand that the officer present do the
19 following things:

- 20
21 (1) ~~(3)~~ take you to a place nearby where you will be safe if
22 you want to leave here; and
23 (2) ~~(4)~~ tell you how to contact the nearest organization that
24 offers aid or shelter to victims of domestic violence.

25
26 You HAVE the right to ASK the COURT to ISSUE AN
27 order protecting you AND your children from domestic
28 violence AND providing other necessary assistance,
29 which MAY include ordering the Attacker out of
30 your home and giving you temporary custody of
31 your children.

1 ~~loss of earnings or support or other costs for injuries you~~
2 ~~or your children received.~~

3 If ~~your~~ ^{the} attacker does not obey a court order to get out
4 of the house or to leave you alone, ~~your~~ ^{the} attacker can be
5 arrested immediately. To get a court order contact the
6 superior court in (name of place) and they will help you.
7 You must do this within 10 days. To get an order quickly
8 in an emergency, you may also contact the district court
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect ~~you~~ ^{or your children.} You also
11 have the right to file a criminal complaint against your
12 attacker."

13 (c) If the victim does not understand English, the officer shall
14 make reasonable efforts to explain the rights provided in this section
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
17 violence who is an adult or an emancipated minor may, within 10 days of
18 the act of domestic violence, petition a superior court or, if the
19 circumstances described in (c) of this section exist, petition a dis-
20 trict judge or magistrate under (c) of this section for an order

- 21 (1) restraining the assailant from subjecting the petitioner
22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-
24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner
27 or for the minor children in the care of the petitioner if there is an
28 independent legal obligation of the assailant to support the petitioner
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses
4 suffered as a result of the domestic violence, including medical and
5 moving expenses, loss of earnings or support, and other out-of-pocket
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the
8 superior court shall schedule a hearing and shall provide at least three
9 days notice to the respondent of the hearing and of the respondent's
10 right to appear and to be heard either in person or by attorney. If,
11 after the hearing, the superior court finds ~~that the petitioner has been~~
12 ~~subjected to domestic violence by the respondent,~~ *the Allegations of*
13 *the petitioner to be true,* the superior court may
14 issue any of the orders for relief described in (a) of this section or
15 any other order the superior court determines to be necessary for the
16 protection of the health, safety and welfare of the petitioner or of a
17 minor child in the care of the petitioner.

18 (c) The superior court or a district judge or magistrate may issue
19 a temporary order without following the notice and hearing requirements
20 of (b) of this section if (1) the petitioner demonstrates a substantial
21 likelihood of immediate danger from the respondent to the health, safety
22 or welfare of the petitioner or of a minor child in the care of the
23 petitioner; and (2) the court or district judge or magistrate determines
24 that the order is necessary to protect the petitioner or a minor child
25 in the care of the petitioner. Immediately after issuing a temporary
26 order under this subsection or upon receiving notice of an order issued
27 by a district judge or magistrate under this subsection, the superior
28 court shall notify the respondent and give the respondent an opportunity
29 to be heard as soon as possible, but in no event later than 10 days,
30 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be
3 for a fixed period of time not to exceed 45 days; however, upon motion
4 by the petitioner and after hearing, the superior court may issue an
5 order for an additional period of time as it considers necessary to
6 protect the petitioner from domestic violence. The superior court may
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court
11 system, in cooperation with interested persons and organizations, shall
12 prepare forms and instructions for the use of persons seeking an order
13 for relief under AS 09.55.660, including forms for waiving filing fees
14 on the basis of indigency. The forms shall conform to the requirements
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that
16 information on the forms may be filled in by legible handwriting. The
17 office of the clerk of each superior court shall make the forms and
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a
20 superior court, district judge or magistrate issues an order described
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or
22 magistrate shall transmit a copy of the order to the appropriate local
23 law enforcement agency. Law enforcement agencies shall establish pro-
24 cedures adequate to inform their peace officers of the existence and
25 terms of orders transmitted to the law enforcement agencies under this
26 section. Peace officers shall use every reasonable means to enforce the
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-
2 cers, which acquaint peace officers with the rights of the victim of
3 domestic violence, the types of orders which may be issued under AS 09.-
4 55.660, and techniques for handling incidents of domestic violence which
5 promote the safety of the victim and reduce the likelihood of recur-
6 rence.

7
8 Sec. 09.55.690. CRIMINAL PENALTIES. *(a) An intentional violation of an order*
9 *described in AS 09.55.660(a)(1), (2) or (3) is a CLASS B misdemeanor.*
10 ~~by imprisonment for up to 60 days, or by a fine of up to \$500, or by~~
11 ~~both.~~ A second violation of an order described in AS 09.55.660(a)(1),
(2) or (3) is punishable by ~~no less than three days imprisonment.~~
a minimum sentence of imprisonment not less than 3 consecutive
days (72 CONSECUTIVE hours). The execution
of a sentence may not be suspended nor may probation or parole
be granted until the minimum imprisonment provided in this
section has been served, nor may imposition of sentence be
suspended, except upon condition that the defendant be
imprisoned for no less than the minimum period provided in
this section.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120
121
122
123
124
125
126
127
128
129
130
131
132
133
134
135
136
137
138
139
140
141
142
143
144
145
146
147
148
149
150
151
152
153
154
155
156
157
158
159
160
161
162
163
164
165
166
167
168
169
170
171
172
173
174
175
176
177
178
179
180
181
182
183
184
185
186
187
188
189
190
191
192
193
194
195
196
197
198
199
200
201
202
203
204
205
206
207
208
209
210
211
212
213
214
215
216
217
218
219
220
221
222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255
256
257
258
259
260
261
262
263
264
265
266
267
268
269
270
271
272
273
274
275
276
277
278
279
280
281
282
283
284
285
286
287
288
289
290
291
292
293
294
295
296
297
298
299
300
301
302
303
304
305
306
307
308
309
310
311
312
313
314
315
316
317
318
319
320
321
322
323
324
325
326
327
328
329
330
331
332
333
334
335
336
337
338
339
340
341
342
343
344
345
346
347
348
349
350
351
352
353
354
355
356
357
358
359
360
361
362
363
364
365
366
367
368
369
370
371
372
373
374
375
376
377
378
379
380
381
382
383
384
385
386
387
388
389
390
391
392
393
394
395
396
397
398
399
400
401
402
403
404
405
406
407
408
409
410
411
412
413
414
415
416
417
418
419
420
421
422
423
424
425
426
427
428
429
430
431
432
433
434
435
436
437
438
439
440
441
442
443
444
445
446
447
448
449
450
451
452
453
454
455
456
457
458
459
460
461
462
463
464
465
466
467
468
469
470
471
472
473
474
475
476
477
478
479
480
481
482
483
484
485
486
487
488
489
490
491
492
493
494
495
496
497
498
499
500
501
502
503
504
505
506
507
508
509
510
511
512
513
514
515
516
517
518
519
520
521
522
523
524
525
526
527
528
529
530
531
532
533
534
535
536
537
538
539
540
541
542
543
544
545
546
547
548
549
550
551
552
553
554
555
556
557
558
559
560
561
562
563
564
565
566
567
568
569
570
571
572
573
574
575
576
577
578
579
580
581
582
583
584
585
586
587
588
589
590
591
592
593
594
595
596
597
598
599
600
601
602
603
604
605
606
607
608
609
610
611
612
613
614
615
616
617
618
619
620
621
622
623
624
625
626
627
628
629
630
631
632
633
634
635
636
637
638
639
640
641
642
643
644
645
646
647
648
649
650
651
652
653
654
655
656
657
658
659
660
661
662
663
664
665
666
667
668
669
670
671
672
673
674
675
676
677
678
679
680
681
682
683
684
685
686
687
688
689
690
691
692
693
694
695
696
697
698
699
700
701
702
703
704
705
706
707
708
709
710
711
712
713
714
715
716
717
718
719
720
721
722
723
724
725
726
727
728
729
730
731
732
733
734
735
736
737
738
739
740
741
742
743
744
745
746
747
748
749
750
751
752
753
754
755
756
757
758
759
760
761
762
763
764
765
766
767
768
769
770
771
772
773
774
775
776
777
778
779
780
781
782
783
784
785
786
787
788
789
790
791
792
793
794
795
796
797
798
799
800
801
802
803
804
805
806
807
808
809
810
811
812
813
814
815
816
817
818
819
820
821
822
823
824
825
826
827
828
829
830
831
832
833
834
835
836
837
838
839
840
841
842
843
844
845
846
847
848
849
850
851
852
853
854
855
856
857
858
859
860
861
862
863
864
865
866
867
868
869
870
871
872
873
874
875
876
877
878
879
880
881
882
883
884
885
886
887
888
889
890
891
892
893
894
895
896
897
898
899
900
901
902
903
904
905
906
907
908
909
910
911
912
913
914
915
916
917
918
919
920
921
922
923
924
925
926
927
928
929
930
931
932
933
934
935
936
937
938
939
940
941
942
943
944
945
946
947
948
949
950
951
952
953
954
955
956
957
958
959
960
961
962
963
964
965
966
967
968
969
970
971
972
973
974
975
976
977
978
979
980
981
982
983
984
985
986
987
988
989
990
991
992
993
994
995
996
997
998
999
1000

(b) A peace officer shall arrest [^] and detain a person found by the
peace officer to be in violation of an order described in AS 09.55.660-
(a)(1), (2) or (3) if the order is in full force and effect.

Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -
09.55.700,

(1) "domestic violence" means the intentional perpetration of
any of the following acts by a person against a household member, a
spouse, former spouse, or blood relative of the person:

(A) attempting to cause or causing physical harm to the
other person or to a minor child in the care of the other person;

(B) placing the other person or a minor child in the
care of the other person in fear of imminent serious physical harm;

(C) causing the other person to engage involuntarily in
sexual relations by force, threat of force or duress;

(2) "facility offering shelter to victims of domestic vio-
lence" includes facilities offering programs which provide emergency or
short-term lodging or housing for adults who are victims of domestic
violence and their children.

consistent with the provisions of AS 12.25.03 D,

1 * Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the
4 dwelling units in a housing project for rent or sale to veterans. The
5 offer shall be by publication of reasonable notice in a newspaper cir-
6 culated in the area in which the housing project is located. The autho-
7 rity shall set aside these units for rental or sale to veterans for at
8 least 30 days following first publication of the notice before making
9 them available to other residents. If ^{After the 30 day period,} [after an additional 30 days] a
10 unit remains unassigned, the authority may rent or sell it to any person
11 in the state, provided that victims of domestic violence who move from
12 their homes to avoid further domestic violence [RESIDENTS] ^{shall} have first
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to
15 avoid further domestic violence ^{shall} have first preference for dwelling units
16 in a housing project not set aside for veterans under (a) of this sec-
17 tion.

18 (c) The authority shall adopt regulations in accordance with the
19 Administrative Procedure Act (AS 44.62) to implement the preference in
20 this section for victims of domestic violence. The regulations shall
21 include criteria for determining when a person is a victim of domestic
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23
24 (d) Notwithstanding AS 18.55.110, the preferences in this
25 section for veterans and victims of domestic violence are
26 equally applicable to housing projects receiving financial
27 aid, assistance, or cooperation from the federal government
28 unless the Department of Housing and Urban Development
29 prohibits or disapproves these preferences for such housing
30 projects.

* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

(9) to issue a temporary order in domestic violence cases as provided in AS 09.55.660(c); the district judge or magistrate shall notify the superior court immediately upon issuance of the temporary order.

* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-
2 cedure, by allowing the courts to accept for filing petitions which are hand-
3 written in part. Section 1 of this Act also has the effect of amending Rule
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure
5 for obtaining orders for relief from domestic violence.
6
7

8 * Sec. 5. AS 12,25.030 (b) is amended to read:

9 (b) In addition to the authority granted under (a)
10 of this section, a peace officer without a warrant
11 (MAY ARREST A PERSON WHEN HE HAS REASONABLE CAUSE FOR
12 BELIEVING THAT THE PERSON HAS COMMITTED ASSAULT IN THE
13 THIRD DEGREE UNDER AS 11.41.230(a)(1) AGAINST A MEMBER OF
14 THE PERSON'S HOUSEHOLD) :

15 (1) may arrest a person when he has reasonable cause for
16 believing that the person has committed assault in the
17 third degree under AS 11.41.320(a)(1) against a member of the
18 person's household;

19 (2) shall arrest a person when he has reasonable cause
20 for believing that the person has committed an act in violation
21 of an order described in AS 09.55.650-(a)(1), (2), or (3) if
22 the order is in full force and effect.

23 (3) As used in this section "household" means the social
24 unit comprised of those living together in the same dwelling.
25
26
27
28
29



Alaska State Legislature

House of Representatives

Committee on Judiciary

HB 392
file

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO: Charlie Parr, Chairman, and Members of the House Judiciary
Committee

FROM: Margaret W. Berck, Staff *MWB*

DATE: January 23, 1980

RE: HB 392

On January 22, 1980, I met with Rick Svobodny, Assistant Attorney General, and Bruce Horowitz, Alaska Legal Services. The purpose of this meeting was to determine what amendments might be made to HB 392 which would resolve some of the problems raised concerning this bill and which would be agreeable to both the Attorney General's Office and Alaska Legal Services. The results of this meeting are reflected in the attached bill, amended as noted, and are provided for your information.

Introduced: 3/14/79
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,
DUNCAN, HAYES, MEEKINS, MILLER,
PARR, ROGERS, SCHAEFFER AND
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
12 has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim
13 of domestic violence, the officer shall use all reasonable means to
14 prevent further domestic violence and to assure the safety of the
15 victim, including

16 (1) remaining on the scene of the domestic violence as long
17 *the officer believes that* as there would be a danger to the physical safety of the victim without
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical
20 treatment ~~if necessitated by an assault~~, including transportation to the
21 emergency room of the nearest hospital or to the nearest health
22 provider, *if the peace officer believes it is necessary;*

23 (3) assisting the victim in removing to a safe place nearby,
24 or to the nearest facility offering shelter to victims of domestic
25 violence;

26 (4) giving the victim immediate notice of rights provided
27 under this section and of the existence of the nearest facility offering
28 shelter to victims of domestic violence;

29 (5) arresting the assailant *AS provided in*
AS 12.25.030;

1 (A) ~~if the peace officer has reasonable cause to believe~~
2 ~~that the assailant has committed domestic violence which is a~~
3 ~~felony;~~

4 (B) ~~if domestic violence which is a misdemeanor is~~
5 ~~committed in his presence, or~~

6 (C) ~~under the circumstances set out in AS 12.25.030(b);~~

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall ~~read and give~~
9 to the victim, AND will read to the victim if circumstances

10 allow: "As a victim of domestic violence you may request
11 ~~have the right~~

12 ~~under law to demand~~ that the officer present do the following
13 things:

- 14 (1) stay as long as needed to make sure that you are safe;
15 (2) take you to the nearest hospital or health provider

16 if you need medical care;

17 "As a victim of domestic violence you have the right to demand that the
18 (1) (2) take you to a place nearby where you will be safe if
19 you want to leave here; and

20 (2) (4) tell you how to contact the nearest organization that
21 offers aid or shelter to victims of domestic violence.

22 You have the right to ask the court to issue an order to protecting you
23 from domestic violence and providing other necessary
24 ~~do any or all of the following things:~~ ASSISTANCE,

25 (1) ~~order your attacker to stop hurting or threatening~~
26 ~~you or your children;~~

27 (2) ~~order your attacker to get out of the house;~~

28 (3) ~~order your attacker not to communicate with you~~
29 ~~in any way;~~

30 (4) give you temporary custody of your children;

31 (5) order your attacker to pay for your costs which
32 result from the attack; including medical and moving costs.

that the
officer
present do
the following
thing:

and your
children

which may
include
1) Ordering the
attacker to
stay away from
the home
2) Temporary
custody
of the
children

1 ~~loss of earnings or support, or other costs for injuries you~~
2 ~~or your children received.~~

3 If ^{the} ~~your~~ attacker does not obey a court order to get out
4 of the house or to leave you alone, ^{the} ~~your~~ attacker can be
5 arrested immediately. To get a court order contact the
6 superior court in (name of place) and they will help you.
7 You must do this within 10 days. To get an order quickly
8 in an emergency, you may also contact the district court
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you. ^{or your children}
11 You also have the right to file a criminal complaint against your
12 attacker."

13 (c) If the victim does not understand English, the officer shall
14 make reasonable efforts to explain the rights provided in this section
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
17 violence who is an adult or an emancipated minor may, within 10 days of
18 the act of domestic violence, petition a superior court or, if the
19 circumstances described in (c) of this section exist, petition a dis-
20 trict judge or magistrate under (c) of this section for an order

- 21 (1) restraining the assailant from subjecting the petitioner
22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-
24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner
27 or for the minor children in the care of the petitioner if there is an
28 independent legal obligation of the assailant to support the petitioner
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses
4 suffered as a result of the domestic violence, including medical and
5 moving expenses, loss of earnings or support, and other out-of-pocket
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the
8 superior court shall schedule a hearing and shall provide at least three
9 days notice to the respondent of the hearing and of the respondent's
10 right to appear and to be heard either in person or by attorney. If,
11 after the hearing, the superior court finds that the petitioner has been
12 subjected to domestic violence by the respondent, the superior court may
13 issue any of the orders for relief described in (a) of this section or
14 any other order the superior court determines to be necessary for the
15 protection of the health, safety and welfare of the petitioner or of a
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue
18 a temporary order without following the notice and hearing requirements
19 of (b) of this section if (1) the petitioner demonstrates a substantial
20 likelihood of immediate danger from the respondent to the health, safety
21 or welfare of the petitioner or of a minor child in the care of the
22 petitioner; and (2) the court or district judge or magistrate determines
23 that the order is necessary to protect the petitioner or a minor child
24 in the care of the petitioner. Immediately after issuing a temporary
25 order under this subsection or upon receiving notice of an order issued
26 by a district judge or magistrate under this subsection, the superior
27 court shall notify the respondent and give the respondent an opportunity
28 to be heard as soon as possible, but in no event later than 10 days,
29 after the order is issued on the question of continuing the temporary
30

1 order.

2 (d) Relief granted by a superior court under this section shall be
3 for a fixed period of time not to exceed 45 days; however, upon motion
4 by the petitioner and after hearing, the superior court may issue an
5 order for an additional period of time as it considers necessary to
6 protect the petitioner from domestic violence. The superior court may
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court
11 system, in cooperation with interested persons and organizations, shall
12 prepare forms and instructions for the use of persons seeking an order
13 for relief under AS 09.55.660, including forms for waiving filing fees
14 on the basis of indigency. The forms shall conform to the requirements
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that
16 information on the forms may be filled in by legible handwriting. The
17 office of the clerk of each superior court shall make the forms and
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a
20 superior court, district judge or magistrate issues an order described
21 in AS 09.55.660(4)(1), (2) or (3), the superior court, district judge or
22 magistrate shall transmit a copy of the order to the appropriate local
23 law enforcement agency. Law enforcement agencies shall establish pro-
24 cedures adequate to inform their peace officers of the existence and
25 terms of orders transmitted to the law enforcement agencies under this
26 section. Peace officers shall use every reasonable means to enforce the
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement
29 agencies shall establish training procedures for peace officers, or

shall include training in existing training procedures for peace officers, which acquaint peace officers with the rights of the victim of domestic violence, the types of orders which may be issued under AS 09.55.660, and techniques for handling incidents of domestic violence which promote the safety of the victim and reduce the likelihood of recurrence.

Sec. 09.55.690. CRIMINAL PENALTIES. (a) ^{An intentional} violation of an order described in AS 09.55.660(a)(1), (2) or (3) is a misdemeanor, punishable ^{CLASS E} by ~~imprisonment for up to 60 days, or by a fine of up to \$500, or by both.~~ A second violation of an order described in AS 09.55.660(a)(1), (2) or (3) is punishable by ~~no less than three days imprisonment.~~

(b) A peace officer shall arrest and detain a person found by the peace officer to be in violation of an order described in AS 09.55.660(a)(1), (2) or (3) if the order is in full force and effect. ^{See attachment for amendment to be inserted consistent with the provision of AS 12.25.030.}

Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 - 09.55.700,

(1) "domestic violence" means the intentional perpetration of any of the following acts by a person against a household member, a spouse, former spouse, or blood relative of the person:

(A) attempting to cause or causing physical harm to the other person or to a minor child in the care of the other person;

(B) placing the other person or a minor child in the care of the other person in fear of imminent serious physical harm;

(C) causing the other person to engage involuntarily in sexual relations by force, threat of force or duress;

(2) "facility offering shelter to victims of domestic violence" includes facilities offering programs which provide emergency or short-term lodging or housing for adults who are victims of domestic violence and their children.

1 * Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the
4 dwelling units in a housing project for rent or sale to veterans. The
5 offer shall be by publication of reasonable notice in a newspaper cir-
6 culated in the area in which the housing project is located. The autho-
7 rity shall set aside these units for rental or sale to veterans for at
8 least 30 days following first publication of the notice before making
9 them available to other residents. If, after an additional 30 days a
10 unit remains unassigned, the authority may rent or sell it to any person
11 in the state, provided that victims of domestic violence who move from
12 their homes to avoid further domestic violence [RESIDENTS] have first
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to
15 avoid further domestic violence have first preference for dwelling units
16 in a housing project not set aside for veterans under (a) of this sec-
17 tion.

18 (c) The authority shall adopt regulations in accordance with the
19 Administrative Procedure Act (AS 44.62) to implement the preference in
20 this section for victims of domestic violence. The regulations shall
21 include criteria for determining when a person is a victim of domestic
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 * Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24 (9) to issue a temporary order in domestic violence cases as
25 provided in AS 09.55.660(c); the district judge or magistrate shall
26 notify the superior court immediately upon issuance of the temporary
27 order.

28 * Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-
2 cedure, by allowing the courts to accept for filing petitions which are hand-
3 written in part. Section 1 of this Act also has the effect of amending Rule
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure
5 for obtaining orders for relief from domestic violence.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Introduced: 2/2/79
Referred: Judiciary and
Finance

BY ZIEGLER, BRADLEY, MELAND, RODEY,
STIMSON AND STURGULEWSKI

1 IN THE SENATE

2 SENATE BILL NO. 104 am

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act establishing the court of appeals; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 22 is amended by adding a new chapter to read:

10 CHAPTER 07. THE COURT OF APPEALS.

11 Sec. 22.07.010. ESTABLISHMENT. There is established the court of
12 appeals, consisting of three judges.

13 Sec. 22.07.020. JURISDICTION. (a) The court of appeals has
14 appellate jurisdiction in actions and proceedings commenced in the
15 superior court involving:

- 16 (1) criminal prosecution;
- 17 (2) post-conviction relief; *Rule 35*
- 18 (3) waiver of children's court jurisdiction over a minor
19 *no Hugh* under AS 47.10; *unamendable to treatment - not rehab by age 20*
- 20 (4) extradition;
- 21 (5) habeas corpus;
- 22 (6) revocation of probation or parole;
- 23 (7) bail; and
- 24 *no Hugh* (8) appeal to the superior court from a decision of an
25 administrative agency.

26 (b) The court of appeals has appellate jurisdiction in all actions
27 and proceedings commenced in the district court and may, in its discre-
28 tion, remand a district court matter to the superior court for a trial
29 de novo in whole or in part.

1 (c) The court of appeals may issue injunctions, writs and all
2 other process necessary for the complete exercise of its jurisdiction.

3 (d) The court of appeals has jurisdiction to hear appeals of
4 sentences of imprisonment imposed by the superior court or the district
5 court on the grounds that the sentence is excessive or too lenient and,
6 in the exercise of this jurisdiction, may modify the sentence as pro-
7 vided by law and the state constitution.

8 (e) An appeal to the court of appeals is a matter of right in all
9 actions and proceedings within its jurisdiction, except that

10 (1) there is no right of appeal to the court of appeals in a
11 case for which direct review by the supreme court has been provided by
12 rule; and

13 (2) the state has no right of appeal in criminal cases except
14 to test the sufficiency of the indictment or information or to appeal a
15 sentence on the ground it is too lenient under (d) of this section.

16 Sec. 22.07.030. REVIEW BY SUPREME COURT. A party may apply to the
17 supreme court for review of a final decision of the court of appeals in
18 accordance with AS 22.05.010 and rules adopted by the supreme court. In
19 this section, "final decision" means a decision or order other than a
20 dismissal by consent of all parties that closes a matter in the court of
21 appeals.

22 Sec. 22.07.040. QUALIFICATIONS OF JUDGES. A judge of the court of
23 appeals shall be a citizen of the United States and of the state, a
24 resident of the state for three years immediately preceding his appoint-
25 ment, have been engaged for not less than eight years immediately pre-
26 ceding his appointment in the active practice of law, and at the time of
27 appointment be licensed to practice law in the state. For purposes of
28 this section, the active practice of law shall be the same as defined
29 for the justices of the supreme court in AS 22.05.070.

*Memo
Coming*

*1/27
@m
only*

1 Sec. 22.07.050. OATH OF OFFICE. Each judge of the court of
2 appeals, upon entering office, shall take and subscribe to an oath of
3 office required of all officers under the constitution and such further
4 oath or affirmation as may be prescribed by law.

5 Sec. 22.07.060. APPROVAL OR REJECTION. Each judge of the court of
6 appeals is subject to approval or rejection as provided in the Alaska
7 Election Code (AS 15). The judicial council shall conduct an evaluation
8 of each judge before his retention election and shall provide to the
9 public information about the judge and may provide a recommendation
10 regarding his retention or rejection. The information and any recommen-
11 dation shall be made public at least 30 days before the election. The
12 judicial council shall also provide the information and any recommenda-
13 tion to the office of the lieutenant governor in time for publication in
14 the election pamphlet under AS 15.57.025. If a majority of those voting
15 on the question rejects the candidacy of a judge, he may not for a
16 period of four years thereafter be appointed to fill a vacancy in the
17 supreme court, the court of appeals, or the superior court of the state.

18 Sec. 22.07.070. VACANCIES. (a) The governor shall fill a vacancy
19 or appoint a successor to fill an impending vacancy in the office of
20 judge of the court of appeals within 45 days after receiving nominations
21 from the judicial council, by appointing one of two or more persons
22 nominated by the council for each actual or impending vacancy. An
23 appointment to fill an impending vacancy becomes effective upon the
24 actual occurrence of the vacancy.

25 (b) The office of a judge of the court of appeals becomes vacant
26 90 days after the election at which he is rejected by a majority of
27 those voting on the question or for which he fails to file his declara-
28 tion of candidacy to succeed himself. Upon the occurrence of (1) an
29 actual vacancy; (2) the certification of rejection following an elec-

tion; or (3) the failure of a judge to file a declaration of candidacy to succeed himself, the judicial council shall meet within 45 days and submit to the governor the names of two or more persons qualified for the judicial office; however, the 45-day period may be extended by the judicial council with the concurrence of the supreme court. In the event of an impending vacancy other than by reason of rejection or failure to file a declaration of candidacy, the judicial council may meet at any time within the 90-day period immediately preceding the effective date of the vacancy and submit to the governor the names of two or more persons qualified for the judicial office.

Sec. 22.07.080. RESTRICTIONS. A judge of the court of appeals while holding office may not practice law, or engage in the conduct of any other profession, vocation or business for profit or compensation, which conduct would interfere with his performance of his judicial duties, nor may he hold office in a political party, or hold any other office or position of profit under the United States, the state or its political subdivisions. A judge of the court of appeals filing for another elective public office forfeits his judicial position.

Sec. 22.07.090. COMPENSATION. (a) Each judge of the court of appeals is entitled to receive annual compensation prescribed in accordance with AS 39.23. The compensation of a judge may not be diminished during his term of office, unless by general law applying to all salaried officers of the state.

(b) A salary warrant may not be issued to a judge of the court of appeals until he has filed with the state officer designated to issue salary warrants an affidavit that no matter referred to the judge for opinion or decision has been incompleated or undecided by him for a period of more than six months.

Sec. 22.07.100. PROCESS. Process of the court of appeals shall be

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

in the name of the State of Alaska, signed by the clerk of the court or his deputy, dated when issued, sealed with the seal of court, and made returnable according to rule prescribed by the supreme court.

* Sec. 2. AS 22.05.010 is repealed and re-enacted to read:

Sec. 22.05.010. JURISDICTION. (a) The supreme court has final appellate jurisdiction in all actions and proceedings.

(b) Appeal to the supreme court is a matter of right only in those actions and proceedings from which there is no right of appeal to the court of appeals under AS 22.07.020.

(c) The supreme court may in its discretion review a final decision of the court of appeals on its own motion or on application of a party under AS 22.07.030.

(d) The supreme court may issue injunctions, writs and all other process necessary to the complete exercise of its jurisdiction.

* Sec. 3. AS 22.05 is amended by adding a new section to read:

Sec. 22.05.015. TRANSFER OF APPELLATE CASES. (a) The supreme court may transfer to the court of appeals for decision a case pending before the supreme court if the case is within the jurisdiction of the court of appeals.

(b) The supreme court may take jurisdiction of a case pending before the court of appeals if the supreme court determines that

(1) the case involves a significant question of law under the Constitution of the United States or of the state or an issue of substantial public interest that should be determined by the supreme court; or

(2) the transfer will further the efficient administration of justice.

(c) The supreme court may provide by rule that review of an appeal to the superior court from an administrative agency be by the supreme

How decide? argue again?

?

open!

1 court rather than by the court of appeals under AS 22.07.020(8).

2 (d) A case filed in the supreme court or in the court of appeals
3 may not be dismissed by one court on the sole ground that it is within
4 the jurisdiction of the other court. The case shall be transferred to
5 the proper court.

6 * Sec. 4. AS 22.05.060 is amended to read:

7 Sec. 22.05.060. SEALS OF COURT. The seal of the supreme court is
8 a vignette of the official flag of the state with the words "Seal of the
9 Supreme Court of the State of Alaska" surrounding the vignette. The
10 supreme court shall prescribe by rule the seals of court for the court
11 of appeals and for the superior and district courts.

12 * Sec. 5. AS 22.05.100 is amended to read:

13 Sec. 22.05.100. APPROVAL OR REJECTION. Each supreme court justice
14 is subject to approval or rejection as provided in the Alaska Election
15 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
16 tion of each justice before his retention election and shall provide to
17 the public information about that justice and may provide a recommenda-
18 tion regarding his retention or rejection. Such information and any
19 recommendation shall be made public at least 30 days before the reten-
20 tion election. The judicial council shall also provide such information
21 and any recommendation to the office of the lieutenant governor in time
22 for publication in the election pamphlet under AS 15.57.025. If a
23 majority of those voting on the question rejects his candidacy, he shall
24 not be appointed to fill any vacancy in the supreme court, court of
25 appeals or superior courts of the state for a period of four years
thereafter.

26 * Sec. 6. AS 22.10.020(a) is amended to read:

27 (a) The superior court is the trial court of general jurisdiction,
28 with original jurisdiction in all civil and criminal matters, including
29

1 but not limited to probate and guardianship of minors and incompetents.
2 The jurisdiction of the superior court extends over the whole of the
3 state. The superior court and its judges may issue injunctions, writs
4 of review, mandamus, prohibition, habeas corpus and all other writs
5 necessary or proper to the complete exercise of its jurisdiction. A
6 writ of habeas corpus may be made returnable before any judge of the
7 superior court. The superior court has jurisdiction in all matters
8 appealed to it from an [A SUBORDINATE COURT, OR] administrative agency
9 when appeal is provided by law. Appeals are a matter of right [, BUT NO
10 APPEAL FROM A SUBORDINATE COURT MAY BE TAKEN BY THE DEFENDANT IN A
11 CRIMINAL CASE AFTER A PLEA OF GUILTY, EXCEPT ON THE GROUND THAT THE
12 SENTENCE WAS EXCESSIVE, AS FURTHER PROVIDED BY THIS SECTION. NO APPEAL
13 MAY BE TAKEN BY THE STATE, EXCEPT TO TEST THE SUFFICIENCY OF AN INDICT-
14 MENT OR INFORMATION. AN APPEAL TO THE SUPERIOR COURT MAY BE TAKEN ON
15 THE GROUND THAT A SENTENCE OF IMPRISONMENT OF 180 DAYS OR MORE WAS
16 EXCESSIVE AND THE SUPERIOR COURT IN THE EXERCISE OF THIS JURISDICTION
17 HAS THE POWER TO MODIFY THE SENTENCE APPEALED FROM UPWARD OR DOWNWARD].
18 The hearings on appeal from a final order or judgment of an [A SUBOR-
19 DINATE COURT OR] administrative agency shall be on the record unless the
20 superior court, in its discretion, grants a trial de novo, in whole or
21 in part.

22 * Sec. 7. AS 22.10.150 is amended to read:

23 Sec. 22.10.150. APPROVAL OR REJECTION. Each superior court judge
24 is subject to approval or rejection as provided in the Alaska Election
25 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
26 tion of each judge before his retention election and shall provide to
27 the public information about the judge and may provide a recommendation
28 regarding his retention or rejection. Such information and any recom-
29 mendation shall be made public at least 30 days before the retention

1 election. The judicial council shall also provide such information and
2 any recommendation to the office of the lieutenant governor in time for
3 publication in the election pamphlet under AS 15.57.025. If a majority
4 of those voting on the question rejects his candidacy, he shall not for
5 a period of four years thereafter be appointed to fill any vacancy in
6 the supreme court, court of appeals or superior courts of the state.

7 * Sec. 8. AS 22.15.195 is amended to read:

8 Sec. 22.15.195. APPROVAL OR REJECTION. Each district court judge
9 is subject to approval or rejection as provided in the Alaska Election
10 Code (AS 15.05 - 15.60). The judicial council shall conduct an evalua-
11 tion of each judge before his retention election and shall provide to
12 the public information about the judge and may provide a recommendation
13 regarding his retention or rejection. Such information and the recom-
14 mendation shall be made public at least 30 days before the election.
15 The judicial council shall also provide such information and any recom-
16 mendation to the office of the lieutenant governor in time for publica-
17 tion in the election pamphlet under AS 15.57.025. If a majority of those
18 voting on the question rejects his candidacy, he shall not for a period
19 of four years thereafter be appointed to fill any vacancy in the supreme
20 court, court of appeals, superior courts or district courts of the
21 state.

22 * Sec. 9. AS 22.15.240 is amended to read:

23 Sec. 22.15.240. APPEAL. (a) Either party may appeal a judgment
24 of the district court in a civil action to the court of appeals [SU-
25 PERIOR COURT] when the sum in controversy is not less than \$50, or for
26 the recovery of personal property of the value of not less than \$50
27 exclusive of costs in either case, except when the sum is given by
28 confession or for want of an answer.

29 (b) The defendant may appeal a judgment of conviction given in the

9
1 district court in a criminal action to the court of appeals [SUPERIOR
2 COURT]. When the judgment is given on a plea of guilty, no appeal may
3 be taken by the defendant except on the ground that a sentence of im-
4 prisonment of 45 [180] days or more was excessive; however, the supreme
5 court by rule may further provide for review of a judgment given on a
6 plea of guilty. The state has no right of appeal in criminal actions
7 for which judgment is given in the district courts, except to test the
8 sufficiency of the information.

9 (c) An appeal from the district court shall be taken within 30
10 days from the date of entry of the judgment. All appeals shall be on
11 the record [UNLESS THE SUPERIOR COURT, IN ITS DISCRETION, GRANTS A TRIAL
12 DE NOVO, IN WHOLE OR IN PART].

13 (d) The supreme court shall prescribe further rules for the pro-
14 cedure for appeals from district courts.

15 * Sec. 10. AS 22.20.010 is amended to read:

16 Sec. 22.20.010. JUDICIAL OFFICER DEFINED. The term "judicial
17 officer" means a supreme court justice, including the chief justice,
18 a judge of the court of appeals, a judge of the superior court, a dis-
19 trict judge and a magistrate.

20 * Sec. 11. AS 22.20.110 is amended to read:

21 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF APPEALS,
22 THE SUPERIOR COURT AND DISTRICT COURTS. When required by the supreme
23 court, the commissioner shall serve and execute all process issued by
24 the court of appeals, the superior court and the district courts, attend
25 to and wait upon grand and petit juries, maintain order, attend the
26 sessions of the courts, and exercise the power and perform the duties
27 concerning all matters within the jurisdiction of the courts as may be
28 assigned to him. The commissioner is the executive officer of the court
29 of appeals, the superior court and district courts.

1 * Sec. 12. AS 22.25.010(g) is amended to read:

2 (g) The word "justice" means a supreme court justice, and the word
3 "judge," unless the context clearly indicates otherwise, means a judge
4 of the court of appeals, a superior court judge or district court judge.

5 * Sec. 13. AS 22.30.080(2) is amended to read:

6 (2) "judge" means a justice of the supreme court, a judge of
7 the court of appeals, a judge of the superior court, or a judge of the
8 district court who is the subject of an investigation or proceeding
9 under sec. 10, art. IV, Constitution of the State of Alaska and this
10 chapter.

11 * Sec. 14. AS 11.56.900(2) is amended to read:

12 (2) "judicial officer" means a supreme court justice, in-
13 cluding the chief justice, a judge of the court of appeals, a judge of
14 the superior court, a district court judge, or a magistrate;

15 * Sec. 15. AS 15.15.030(10) is repealed and re-enacted to read:

16 (10) A separate nonpartisan judicial ballot shall be desig-
17 nated for each judicial district in which a justice or judge is seeking
18 to succeed himself. The ballot shall be divided into four parts and
19 each part shall bear a heading indicating the court to which the candi-
20 date is seeking approval. Within each part the question of whether the
21 justice or judge shall be approved or rejected shall be set out in
22 substantially the following manner: (A) "Shall be re-
23 tained as justice of the supreme court for 10 years?"; (B) "Shall . . .
24 be retained as judge of the court of appeals for eight years?";
25 (C) "Shall be retained as judge of the superior court for
26 six years?"; or (D) "Shall be retained as judge of the
27 district court for four years?" Provision shall be made for marking
28 each question "Yes" or "No".

29 * Sec. 16. AS 15.35 is amended by adding new sections to read:

1 Sec. 15.35.140. APPROVAL OR REJECTION OF A JUDGE OF THE COURT OF
2 APPEALS. Each judge of the court of appeals shall be subject to
3 approval or rejection at the first general election held more than three
4 years after his appointment. If approved, he shall thereafter be sub-
5 ject to approval or rejection in a like manner every eighth year.

6 Sec. 15.35.150. FILING DECLARATION BY JUDGE OF THE COURT OF
7 APPEALS. Each judge of the court of appeals seeking to succeed himself
8 in office shall file with the lieutenant governor a declaration of
9 candidacy not less than 90 days before the date of the general election
10 at which approval or rejection is requisite.

11 Sec. 15.35.160. REQUIREMENT OF FILING FEE FOR COURT OF APPEALS.
12 At the time the declaration is filed, each candidate shall pay a filing
13 fee to the lieutenant governor. The filing fee for a candidate for the
14 court of appeals is \$100.

15 Sec. 15.35.170. PLACING NAME OF JUDGE OF THE COURT OF APPEALS ON
16 BALLOT. The lieutenant governor shall place the name of a judge of the
17 court of appeals who has properly filed a declaration of candidacy on
18 the judicial ballot in each judicial district of the state for the
19 general election at which approval is sought.

20 * Sec. 17. AS 15.57.025 is amended to read:

21 Sec. 15.57.025. INFORMATION AND RECOMMENDATIONS ON JUDICIAL
22 OFFICERS. No later than 60 days before the applicable state election,
23 the judicial council shall file with the lieutenant governor a statement
24 including information about each supreme court justice, court of appeals
25 judge, superior court judge, and district court judge who will be sub-
26 ject to a retention election, following the evaluation of each such
27 justice or judge conducted by the judicial council according to law.
28 Each such statement may not exceed 300 words.

29 * Sec. 18. AS 15.57.040(2) is amended to read:

1 (2) judicial officer other than supreme court justice or
2 court of appeals judge, \$50 each.

3 * Sec. 19. AS 24.55.330(2) is amended to read:

4 (2) "agency" includes a department, office, institution,
5 corporation, authority, organization, commission, committee, council or
6 board of a municipality or in the executive, legislative or judicial
7 branches of the state government, and a department, office, institution,
8 corporation, authority, organization, commission, committee, council or
9 board of a municipality or of the state government independent of the
10 executive, legislative and judicial branches; it also includes an
11 officer, employee or member of an "agency" acting or purporting to act
12 in the exercise of his official duties, but does not include the gover-
13 nor, lieutenant governor, a member of the legislature, justice of the
14 supreme court, judge of the court of appeals, a superior court judge,
15 [OR] district court judge, magistrate, member of a city council or
16 borough assembly, elected city or borough mayor, or a member of an
17 elected school board;

18 * Sec. 20. AS 39.20.310(1) is amended to read:

19 (1) members of the state legislature, the governor, the
20 lieutenant governor, and justices and judges of the supreme and superior
21 courts and of the court of appeals, but nothing in AS 39.20.220 -
22 39.20.330 may be construed to diminish the salaries fixed by law for
23 these officers by reason of absence from duty on account of illness or
24 otherwise;

25 * Sec. 21. AS 39.23.130(2) is amended to read:

26 (2) "judiciary" means justices of the supreme court and
27 judges of the court of appeals, the superior court and the district
28 court [THE SUPERIOR AND DISTRICT COURTS].

29 * Sec. 22. AS 39.35.680(21)(C)(vi) is amended to read:

1 (vi) justices of the supreme court or judges of the
2 court of appeals or of the superior or district courts of
3 Alaska;

4 * Sec. 23. AS 39.50.200(2) is amended to read:

5 (2) "judicial officer" means a person appointed as a justice
6 to the supreme court or as a judge to the court of appeals, superior
7 court, district court, or magistrate court.

8 * Sec. 24. AS 12.55.120(a) is amended to read:

9 (a) A sentence of imprisonment lawfully imposed by the superior
10 court for a term or for aggregate terms of 45 days or more [EXCEEDING
11 ONE YEAR] may be appealed to the court of appeals [SUPREME COURT] by the
12 defendant on the ground that the sentence is excessive. By appealing a
13 sentence under this section, the defendant waives the right to plead
14 that by a revision of the sentence resulting from the appeal he has been
15 twice placed in jeopardy for the same offense.

16 * Sec. 25. AS 12.55.120(b) is amended to read:

17 (b) A sentence of imprisonment lawfully imposed by the superior
18 court may be appealed to the court of appeals [SUPREME COURT] by the
19 state on the ground that the sentence is too lenient; however, when a
20 sentence is appealed by the state and the defendant has not appealed the
21 sentence, the court is not authorized to increase the sentence but may
22 express its approval or disapproval of the sentence and its reasons in a
23 written opinion.

24 * Sec. 26. A judge of the court of appeals is entitled to receive annual
25 compensation equal to 95 per cent of the annual compensation of a supreme
26 court justice, payable in equal monthly installments, from the date upon
27 which he takes office until superseded by payment of compensation resulting
28 from the first salary recommendations made under AS 39.23 for judges of the
29 court of appeals.

which one? which one?

1 * Sec. 27. Notwithstanding the effective date of this Act, operations of
2 the court of appeals shall commence on a date determined by the supreme court
3 after all judges of the court of appeals have taken office.

4 * Sec. 28. The superior court has concurrent appellate jurisdiction with
5 the court of appeals in actions and proceedings commenced in the district
6 court and filed in the superior court before the date on which operations of
7 the court of appeals commence. The supreme court may transfer to the court
8 of appeals an appellate matter involving an action or proceeding commenced in
9 the district court which is pending in the superior court on the date on
10 which operations of the court of appeals commence, including a matter filed
11 before the effective date of this Act. An appellate matter not so trans-
12 ferred shall be decided by the superior court. Before commencement of opera-
13 tions in the court of appeals, a decision of the superior court under this
14 section may be appealed to the supreme court and thereafter to the court of
15 appeals.

16 * Sec. 29. The supreme court may transfer to the court of appeals any
17 matter within the jurisdiction of the court of appeals which is pending in
18 the supreme court on the date on which operations of the court of appeals
19 commence, including matters filed in the supreme court before the effective
20 date of this Act.

21 * Sec. 30. It is the intent of the legislature that the court of appeals
22 commence operations as soon as possible after the effective date of this Act.
23 The administrative director of courts shall immediately take necessary action
24 to provide suitable facilities for the court of appeals. When advised by the
25 supreme court, the judicial council shall meet and submit nominations to the
26 governor for all initial vacancies for judge of the court of appeals.

27 * Sec. 31. Section 14 of this Act takes effect January 1, 1980. The
28 remainder of this Act takes effect July 1, 1979.

29

Brothers
70% OK

AWAKE
OVER 2000 women
state last year
59%

not treat
differently
because
in home

Introduced: 3/14/79
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,
DUNCAN, HAYES, MEEKINS, MILLER,
PARR, ROGERS, SCHAEFFER AND
GARDINER

THE HOUSE

HOUSE BILL NO. 392

IN THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to domestic violence; and amending
Rules 3, 65, and 76, Rules of Civil Procedure."

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

* Section 1. AS 09.55 is amended by adding new sections to read:

ARTICLE 9. DOMESTIC VIOLENCE.

Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
has reason to believe that an adult or an emancipated minor is a victim
of domestic violence, the officer shall use all reasonable means to
prevent further domestic violence and to assure the safety of the
victim, including

- (1) remaining on the scene of the domestic violence as long as there would be a danger to the physical safety of the victim without the presence of the peace officer;
- (2) assisting the victim in obtaining emergency medical treatment if necessitated by an assault, including transportation to the emergency room of the nearest hospital or to the nearest health provider;
- (3) assisting the victim in removing to a safe place nearby, or to the nearest facility offering shelter to victims of domestic violence;
- (4) giving the victim immediate notice of rights provided under this section and of the existence of the nearest facility offering shelter to victims of domestic violence; DV
- (5) arresting the assailant

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

End
OK

1 (A) if the peace officer has reasonable cause to believe
2 that the assailant has committed domestic violence which is a
3 felony,

4 (B) if domestic violence which is a misdemeanor is
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall read and give
9 to the victim:

10 "As a victim of domestic violence you have the right
11 under law to demand that the officer present do the following
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;
14 (2) take you to the nearest hospital or health provider
15 if you need medical care;
16 (3) take you to a place nearby where you will be safe if
17 you want to leave here; (and)
18 (4) tell you how to contact the nearest organization that
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to
21 do any or all of the following things:

- 22 (1) order your attacker to stop hurting or threatening
23 you or your children;
24 (2) order your attacker to get out of the house;
25 (3) order your attacker not to communicate with you
26 in any way;
27 (4) give you temporary custody of your children;
28 (5) order your attacker to pay for your costs which
29 result from the attack, including medical and moving costs,

1 loss of earnings or support, or other costs for injuries you
2 or your children received.

3 If your attacker does not obey a court order to get out
4 of the house or to leave you alone, your attacker can be
5 arrested immediately. To get a court order contact the
6 superior court in (name of place) and they will help you.
7 You must do this within 10 days. To get an order quickly
8 in an emergency, you may also contact the district court
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect you. You also
11 have the right to file a criminal complaint against your
12 attacker."

13 (c) If the victim does not understand English, the officer shall
14 make reasonable efforts to explain the rights provided in this section
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
17 violence who is an adult or an emancipated minor may, within 10 days of
18 the act of domestic violence, petition a superior court or, if the
19 circumstances described in (c) of this section exist, petition a dis-
20 trict judge or magistrate under (c) of this section for an order

21 (1) restraining the assailant from subjecting the petitioner
22 to domestic violence;

23 (2) directing the assailant to vacate the home of the peti-
24 tioner;

25 (3) restraining the assailant from contacting the petitioner;

26 (4) directing the assailant to pay support for the petitioner
27 or for the minor children in the care of the petitioner if there is an
28 independent legal obligation of the assailant to support the petitioner
29 or the children;

temporarily
e.g. natural father

1 (5) awarding temporary custody of a minor child to the peti-
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses
4 suffered as a result of the domestic violence, including medical and
5 moving expenses, loss of earnings or support, and other out-of-pocket
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the
8 superior court shall schedule a hearing and shall provide at least three
9 days notice to the respondent of the hearing and of the respondent's
10 right to appear and to be heard either in person or by attorney. If,
11 after the hearing, the superior court finds that the petitioner has been
12 subjected to domestic violence by the respondent, the superior court may
13 issue any of the orders for relief described in (a) of this section or
14 any other order the superior court determines to be necessary for the
15 protection of the health, safety and welfare of the petitioner or of a
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue
18 a temporary order without following the notice and hearing requirements
19 of (b) of this section if (1) the petitioner demonstrates a substantial
20 likelihood of immediate danger from the respondent to the health, safety
21 or welfare of the petitioner or of a minor child in the care of the
22 petitioner; and (2) the court or district judge or magistrate determines
23 that the order is necessary to protect the petitioner or a minor child
24 in the care of the petitioner. Immediately after issuing a temporary
25 order under this subsection or upon receiving notice of an order issued
26 by a district judge or magistrate under this subsection, the superior
27 court shall notify the respondent and give the respondent an opportunity
28 to be heard as soon as possible, but in no event later than 10 days,
29 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be
3 for a fixed period of time not to exceed 45 days; however, upon motion
4 by the petitioner and after hearing, the superior court may issue an
5 order for an additional period of time as it considers necessary to
6 protect the petitioner from domestic violence. The superior court may
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court
11 system, in cooperation with interested persons and organizations, shall
12 prepare forms and instructions for the use of persons seeking an order
13 for relief under AS 09.55.660, including forms for waiving filing fees
14 on the basis of indigency. The forms shall conform to the requirements
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that
16 information on the forms may be filled in by legible handwriting. The
17 office of the clerk of each superior court shall make the forms and
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a
20 superior court, district judge or magistrate issues an order described
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or
22 magistrate shall transmit a copy of the order to the appropriate local
23 law enforcement agency. Law enforcement agencies shall establish pro-
24 cedures adequate to inform their peace officers of the existence and
25 terms of orders transmitted to the law enforcement agencies under this
26 section. Peace officers shall use every reasonable means to enforce the
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-
2 cers, which acquaint peace officers with the rights of the victim of
3 domestic violence, the types of orders which may be issued under AS 09.-
4 55.660, and techniques for handling incidents of domestic violence which
5 promote the safety of the victim and reduce the likelihood of recur-
6 rence.

7 Sec. 09.55.690. CRIMINAL PENALTIES. (a) ^{Knowing} Violation of an order
8 described in AS 09.55.660(a)(1), (2) or (3) is a misdemeanor punishable
9 by imprisonment for up to 60 days, or by a fine of up to \$500, or by
10 both. A second violation of an order described in AS 09.55.660(a)(1),
11 (2) or (3) is punishable by no less than three days imprisonment.

12 (b) A peace officer shall arrest and detain a person found by the
13 peace officer to be in violation of an order described in AS 09.55.660
14 (a)(1), (2) or (3) if the order is in full force and effect.

15 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -
16 09.55.700,

17 (1) "domestic violence" means the intentional perpetration of
18 any of the following acts by a person against a household member, a
19 spouse, former spouse, or blood relative of the person:

20 (A) attempting to cause or causing physical harm to the
21 other person or to a minor child in the care of the other person;

22 (B) placing the other person or a minor child in the
23 care of the other person in fear of imminent serious physical harm;

24 (C) causing the other person to engage involuntarily in
25 sexual relations by force, threat of force or duress;

26 (2) "Facility offering shelter to victims of domestic vio-
27 lence" includes facilities offering programs which provide emergency or
28 short-term lodging or housing for adults who are victims of domestic
29 violence and their children.

ASKA

1 * Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the
4 dwelling units in a housing project for rent or sale to veterans. The
5 offer shall be by publication of reasonable notice in a newspaper cir-
6 culated in the area in which the housing project is located. The autho-
7 rity shall set aside these units for rental or sale to veterans for at
8 least 30 days following first publication of the notice before making
9 them available to other residents. If, after an additional 30 days a
10 unit remains unassigned, the authority may rent or sell it to any person
11 in the state, provided that victims of domestic violence who move from
12 their homes to avoid further domestic violence [RESIDENTS] have first
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to
15 avoid further domestic violence have first preference for dwelling units
16 in a housing project not set aside for veterans under (a) of this sec-
17 tion.

18 (c) The authority shall adopt regulations in accordance with the
19 Administrative Procedure Act (AS 44.62) to implement the preference in
20 this section for victims of domestic violence. The regulations shall
21 include criteria for determining when a person is a victim of domestic
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 * Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24 (9) to issue a temporary order in domestic violence cases as
25 provided in AS 09.55.660(c); the district judge or magistrate shall
26 notify the superior court immediately upon issuance of the temporary
27 order.

28 * Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-
2 cedure, by allowing the courts to accept for filing petitions which are hand-
3 written in part. Section 1 of this Act also has the effect of amending Rule
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure
5 for obtaining orders for relief from domestic violence.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Domestic violence bill passes state House

The Associated Press

JUNEAU — A wide-ranging bill dealing with domestic violence is on its way to the Senate after receiving unanimous House approval.

The bill, HB392, was introduced by the House Judiciary Committee after a series of hearings around the state during the summer, according to Rep. Charlie Parr, D-Fairbanks, the committee chairman.

"There's no question as to the size of the problem," Parr said before the House voted on Wednesday. He said four other states have passed similar legislation and that while he did not know if it is the answer to wife-beating and other violence in the home, he thought Alaska should give it a try.

The measure outlines steps police must take if called to a home because of domestic violence, provides for a Miranda-like list of rights that victims have and that police must advise them of, and includes sexual activity without consent as domestic violence under the law.

In addition, the measure requires public housing authorities to give preference to domestic violence victims who otherwise meet criteria for occupying dwellings. Veterans have a first preference, however, under existing law.

The bill would require a police officer to remain at the scene of domestic violence as long as he believes the victim is in physical danger. A police officer would also be required

to take the victim to a doctor or hospital for medical treatment if needed, and to a shelter or other safety.

Those provisions are among the list of rights which the officer must provide the victim. In addition, the officer may arrest the offender without a warrant.

The bill also provides for a court to order the attacker to leave the home or otherwise restrain the perpetrator from attacks.

"Domestic violence" under the bill includes the attempt or actual action to cause physical harm, placing the victim in fear of imminent physical harm, and causing the victim to engage without consent in sexual relations.

Arch News

2/21/80



Taking care of domestic violence

by Phyllis Schlafly

THE DOMESTIC VIOLENCE and Prevention Services Act (H.R. 2977) passed the House with very little opposition in December, but is producing accelerating controversy in the Senate where the Child and Human Development subcommittee has scheduled hearings in March.

A coalition of church groups charges that the bill will enable the federal Health and Welfare Department (HW) eventually to intervene directly in family disputes.

One would think that the federal bureaucrats would be involved in enough disputes, both foreign and domestic, that they would be loath to get in the middle of fights between husbands and wives. But the natural growth impetus of the federal bureaucracy is always to look for more problems to solve, so that more tax funds can be appropriated, more federal employees hired and more control exerted over our lives.

The bill would authorize \$65 million for shelters for abused spouses and set up a national clearinghouse on domestic violence to make recommendations to Congress on matters which may affect victims of domestic violence. It can be reliably predicted that the first batch of recommendations will be to appropriate more tax funds for the newly hired bureaucrats trying to cope with the problems.

The bill would authorize the HW secretary to appoint a coordinator of the program who would operate the national clearinghouse on domestic violence, develop a national media campaign to advertise federal services, and make more recommendations to Congress. The HW secretary will award state grants of up to \$150,000 each to support, establish and expand state programs under federal guidelines.

THE DEFINITION of "domestic violence" in the bill is "any act of threatened act of violence, including any forceful detention of an individual which results or threatens to result in physical injury, and is committed by a person 18 years or older against another such person to whom such person is or was related,

or by a person of any age against another person with whom such person is residing in a relationship of husband and wife."

More than half the states have civil and criminal laws addressing the particular issue of domestic violence, and about half the states already have in operation some sort of shelters or services for domestic violence victims.

There is no evidence for the proposition that the federal bureaucracy is better able to cope with the problem of husbands beating wives than local law enforcement and local public and private charitable institutions. There is nothing in the bill to support the hope that it can shield even one wife from a violent husband.

Under questioning, many of the experts in domestic violence concede that the principal problem in domestic violence is alcohol, with other drugs close behind. They also concede that most wives who are beaten by their husbands return to them after R and R at a shelter, and that a large percentage of wives return repeatedly.

A CONSULTATION sponsored by the U.S. Commission on Civil Rights, called "Battered Women: Issues of Public Policy," however, came up with a "cause" which sounds more like a product of ideology than of investigation: "the institution of marriage itself and the way in which women and men are socialized to act out dominant-submissive roles that in and of themselves invite abuse."

The domestic violence bill is more than just another request to spend more of our tax dollars which should be defeated because it is unnecessary, untimely, impractical, inflationary, and beyond the competence of the federal government. It is yet another bill which sharpens the focus between those who believe in the continued vitality of the traditional family and those who believe its stereotypes are obsolete and should be restructured by an all-wise and all-powerful federal government.

Arch Times 8/24/80

House bill tackles domestic violence

By JUDISENIURA
News-Miner Correspondent

Alaska's high incidence of rape and violence against Native women is a major concern of the Alaska Commission on the Status of Women, Barbara Schuhmann, Fairbanks representative on the commission, said at a recent meeting of business women.

According to a recent commission subcommittee report, Alaska has the fourth highest rape rate in the country, and there is overwhelming evidence of violence in the home.

As a result, Schuhmann urged support of a bill introduced in the state House.

Schuhmann recently spoke to a group of about 35 women attending a political action conference sponsored by the Alaska Federation of Business and Professional Women's Clubs, District 3.

Schuhmann said she backs H.B. 392 which provides for additional training for police officers in domestic violence situations, a more accessible restraining order and housing for domestic violence victims.

Violence against women is particularly hard to handle in Bush communities where there is little police protection and because of the isolation, she said.

CETA workers now act as constables in these communities but as temporary peace officers who are usually related to many villagers, they are often reluctant to make arrests.

Under the proposed bill, officers would advise the victim of his or her rights, stay with them as long as

necessary and make an arrest under probable cause of a misdemeanor. At present, arrests can only be made if the crime is witnessed by the officer.

Another proposal of the bill is to create restraining orders which can be filled out by the victim and executed by a judge, magistrate or constable, and to make violation of such an order a misdemeanor.

Schuhmann said it is now difficult to obtaining a restraining order because the victim must come to Fairbanks and then hire an attorney to execute the legal action. A violation of the order often brings no more than a contempt of court charge, Schuhmann said.

Violence in the home often leads to or includes child abuse. Current studies suggest that an abused child will often become an abusing parent, Schuhmann said. The commission hopes that by correcting the violence problem, child abuse will be alleviated.

Schuhmann also urged conferees to pay attention to other current women's issues such as:

- The displaced homemaker bill, which would provide funding at a local level for existing organizations to aid the displaced homemaker.
- Equal training at schools and vocational centers for men and women to create equal employment opportunity for gas pipeline construction.
- Provisions to ensure that women are given their fair share of the state natural resources wealth.
- Prohibiting official travel of state officials to states that have not ratified the Equal Rights Amendment.

HB 392 Feb, 1980

Wife beaters face jail under bill

News-Miner Bureau

JUNEAU—Husbands who beat their wives may face stiff new penalties, including mandatory time in jail for a second violation, if a proposed bill passes the Legislature.

The bill cleared its first hurdle Wednesday night when the House Judiciary Committee passed its own substitute for House Bill 392.

This legislation would strengthen and broaden both the authority peace officers have in handling incidents of domestic violence and in assuring protection to victims.

Alaska's new criminal code took effect at the beginning of the year, and under that code, officers for the first time were given authority to arrest assailants upon reasonable belief that assault in the third degree had been committed.

Previously, officers could make such an arrest only if they actually witnessed the assault. But HB 392, as the committee has amended it, would broaden the authority even more.

The bill would allow officers to arrest assailants for violating court orders restraining their contact with the victim.

It also would mandate that a second offender spend no less than 72 consecutive hours in jail, with no provision for probation, parole or suspension of sentence.

Other highlights of the bill are:

- The victim may request an officer to remain on the scene if he or she feels in danger.

- Officers may take the victim to the nearest emergency room or health care facility, if necessary, and help the victim move to a shelter or place of safety.

- Victims, both adults and emancipated minors, will be able to go to court to get a temporary restraining order against an assailant, with the court providing understandable forms and instructions for the victim to complete.

- Assailants can be ordered by the court to refrain from all contact with the victim, and to pay medical and moving expenses and child support.

But the committee changed all wording from a mandatory "shall" arrest to "may" arrest, after a State Trooper official had testified earlier over concern that the mandatory arrest could leave officers liable for false arrest.

The House Judiciary Committee is chaired by Charlie Parr, D-Fairbanks, and Fred Brown, D-Fairbanks, is among the committee members.

HR 392
1/16/80

Dean Guinelli, Dept of Law -

- ① Favors arrest under new crim code
- ② Judge usually impose condition of no contact with victim before releasing on OR or bail
- ③ Crim penalty for violating restraining order but person may not know of order
- ④ AUSA priorities set by Feds - need to act carefully - frequent reconciliation which may cause move out in few days

LT Col Beaton - Pub Safety

- ① Pub Safety does not wholly support
- ② Civil liability if officer leaves and violence then occurs
- ③ Difficulty reading rights + Miranda + Violent Comp Cards, Rape Awareness ^{also has}
- ④ Wives don't show up to sign complaints or refuse to testify
- ⑤ NY - Crisis Intervention Center - counseling
- ⑥ Need phone central (Crisis Line type) from which victim can get info on options

Vivian Diven - 1/17/80
battered women

- ① Ak Leg Soc - 30-day waiting period
- ② No money to get place - AFDC only - many won't take children
- ③ Troopers - dispatcher refused to give alternatives - press charges or forget it
- ④ Social problem - not criminal problem
- ⑤ Officer should give alternatives - w/ counseling
- ⑥ wants: no contact, family support, mandatory counseling for husband
- ⑦ Crisis Intervention program needed

Peggy -
TRD applies
from date of
notification

X

X

Introduced: 3/14/79
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,
DUNCAN, HAYES, MEEKINS, MILLER,
PARR, ROGERS, SCHAEFFER AND
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE *AS 9-55-590*

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
12 has reason to believe that an adult or an *or unemancipated* emancipated minor is a victim
13 of domestic violence, the officer shall use all reasonable means to
14 prevent further domestic violence and to assure the safety of the
15 victim, including

16 (1) remaining on the scene of the domestic violence as long
17 as there would be a danger to the physical safety of the victim without
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical
20 treatment if necessitated by an assault, including transportation to the
21 emergency room of the nearest hospital or to the nearest health
22 provider;

23 (3) assisting the victim in removing to a safe place nearby,
24 or to the nearest facility offering shelter to victims of domestic
25 violence;

26 (4) giving the victim immediate notice of rights provided
27 under this section and of the existence of the nearest facility offering
28 shelter to victims of domestic violence;

29 (5) arresting the assailant

*To be consistent throughout bill delete
"emancipated"*

1 (A) if the peace officer has reasonable cause to believe
2 that the assailant has committed domestic violence which is a
3 felony,

4 (B) if domestic violence which is a misdemeanor is
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall read and give
9 to the victim:

10 "As a victim of domestic violence you have the right
11 under law to ~~demand~~^{request} that the officer present do the following
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;
14 (2) take you to the nearest hospital or health provider

15 if you need medical care;

16 *7 for right* (3) *to demand* take you to a place nearby where you will be safe if
17 you want to leave here; and

18 (4) tell you how to contact the nearest organization that
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to
21 do any or all of the following things:

22 (1) order your attacker to stop hurting or threatening
23 you or your children;

24 (2) order your attacker to get out of the house;

25 *freedom of speech* (3) order your attacker not to communicate with you
26 in any way; *what about a try at marriage counseling.*

27 (4) give you temporary custody of your children;

28 (5) order your attacker to pay for your costs which
29 result from the attack, including medical and moving costs,

Peterson - 2,000 sales - what time period
Karen Robinson -
Barbara Bonnie - drugs & alcohol & domestic violence
- new trend on periodicals, books, movies
rape training - what about prevention?

1 loss of earnings or support, or other costs for injuries you
 2 or your children received.

3 If your attacker does not obey a court order to get out
 4 of the house or to leave you alone, your attacker can be
 5 arrested immediately. To get a court order contact the
 6 superior court in (name of place) and they will help you. *ask for*
 7 You must do this within 10 days. To get an order quickly *Help*
 8 in an emergency, you may also contact the district court *711*
 9 in (name of place) or (name of magistrate). *on your children*

10 The court order is designed to protect you. You also
 11 have the right to file a criminal complaint against your
 12 attacker."

13 (c) If the victim does not understand English, the officer shall
 14 make reasonable efforts to explain the rights provided in this section
 15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
 17 violence who is an adult or an emancipated minor may, within 10 days of
 18 the act of domestic violence, petition a superior court or, if the
 19 circumstances described in (c) of this section exist, petition a dis-
 20 trict judge or magistrate under (c) of this section for an order
Will there be special procedures with the courts? this can be implemented or we need more judges does our 24 hr. system handle this?

- 21 (1) restraining the assailant from subjecting the petitioner
- 22 to domestic violence;
- 23 (2) directing the assailant to vacate the home of the peti-
- 24 tioner;
- 25 (3) restraining the assailant from contacting the petitioner;
- 26 (4) directing the assailant to pay support for the petitioner
- 27 or for the minor children in the care of the petitioner if there is an
- 28 independent legal obligation of the assailant to support the petitioner
- 29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-
2 tioner;

is not the intent here an unemancipated child.

3 (6) directing the assailant to pay the petitioner for losses
4 suffered as a result of the domestic violence, including medical and
5 moving expenses, loss of earnings or support, and other out-of-pocket
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the
8 superior court shall schedule a hearing and shall provide at least three
9 days notice to the respondent of the hearing and of the respondent's
10 right to appear and to be heard either in person or by attorney. If,
11 after the hearing, the superior court finds that the petitioner has been
12 subjected to domestic violence by the respondent, the superior court may
13 issue any of the orders for relief described in (a) of this section or
14 any other order the superior court determines to be necessary for the
15 protection of the health, safety and welfare of the petitioner or of a
16 minor child in the care of the petitioner.

17 (c) The superior court or a district judge or magistrate may issue
18 a temporary order without following the notice and hearing requirements
19 of (b) of this section if (1) the petitioner demonstrates a substantial
20 likelihood of immediate danger from the respondent to the health, safety
21 or welfare of the petitioner or of a minor child in the care of the
22 petitioner; and (2) the court or district judge or magistrate determines
23 that the order is necessary to protect the petitioner or a minor child
24 in the care of the petitioner. Immediately after issuing a temporary
25 order under this subsection or upon receiving notice of an order issued
26 by a district judge or magistrate under this subsection, the superior
27 court shall notify the respondent and give the respondent an opportunity
28 to be heard as soon as possible, but in no event later than 10 days,
29 after the order is issued on the question of continuing the temporary

1 order.

2 (d) Relief granted by a superior court under this section shall be
3 for a fixed period of time not to exceed 45 days; however, upon motion
4 by the petitioner and after hearing, the superior court may issue an
5 order for an additional period of time as it considers necessary to
6 protect the petitioner from domestic violence. The superior court may
7 modify its order at any time upon petition of either party.

8 (e) Proceedings under this section do not preclude any other
9 available civil or criminal remedies.

10 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court
11 system, in cooperation with interested persons and organizations, shall
12 prepare forms and instructions for the use of persons seeking an order
13 for relief under AS 09.55.660, including forms for waiving filing fees
14 on the basis of indigency. The forms shall conform to the requirements
15 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that
16 information on the forms may be filled in by legible handwriting. The
17 office of the clerk of each superior court shall make the forms and
18 instructions available to the public.

19 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a
20 superior court, district judge or magistrate issues an order described
21 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or
22 magistrate shall transmit a copy of the order to the appropriate local
23 law enforcement agency. Law enforcement agencies shall establish pro-
24 cedures adequate to inform their peace officers of the existence and
25 terms of orders transmitted to the law enforcement agencies under this
26 section. Peace officers shall use every reasonable means to enforce the
27 orders.

28 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement
29 agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-
2 cers, which acquaint peace officers with the rights of the victim of
3 domestic violence, the types of orders which may be issued under AS 09.-
4 55.660, and techniques for handling incidents of domestic violence which
5 promote the safety of the victim and reduce the likelihood of recur-
6 rence.

7 Sec. 09.55.690. CRIMINAL PENALTIES. (a) ^{an intentional} Violation of an order
8 described in AS 09.55.660(a)(1), (2) or (3) is a ^{class B} misdemeanor punishable
9 by imprisonment for up to ⁹⁰ 60 days, or by a fine of up to \$500, or by
10 both. ^{See new addition to this that does not allow suspending 3 day instead.} A second violation of an order described in AS 09.55.660(a)(1),
11 (2) or (3) is punishable by no less than three days imprisonment.

12 (b) A peace officer shall, ^{consistent with AS 12.05.030 (d)1, + (c),} arrest and detain a person found by the
13 peace officer to be in violation of an order described in AS 09.55.660-
14 (a)(1), (2) or (3) if the order is in full force and effect.

15 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -
16 09.55.700, ^{cover so habitation - prostitutes could misuse this,}

17 (1) "domestic violence" means the intentional perpetration of
18 any of the following acts by a person against a household member, a
19 spouse, former spouse, or blood relative of the person:

20 (A) attempting to cause or causing physical harm to the
21 other person or to a minor child in the care of the other person;

22 (B) placing the other person or a minor child in the
23 care of the other person in fear of imminent serious physical harm;

24 (C) causing the other person to engage involuntarily in
25 sexual relations by force, threat of force or duress;

26 (2) "facility offering shelter to victims of domestic vio-
27 lence" includes facilities offering programs which provide emergency or
28 short-term lodging or housing for adults who are victims of domestic
29 violence and their children.

1 * Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the
4 dwelling units in a housing project for rent or sale to veterans. The
5 offer shall be by publication of reasonable notice in a newspaper cir-
6 culated in the area in which the housing project is located. The autho-
7 rity shall set aside these units for rental or sale to veterans for at
8 least 30 days following first publication of the notice before making
9 them available to other residents. If, after an additional 30 days a
10 unit remains unassigned, the authority may rent or sell it to any person
11 in the state, provided that victims of domestic violence who move from
12 their homes to avoid further domestic violence [RESIDENTS] have first
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to
15 avoid further domestic violence have first preference for dwelling units
16 in a housing project not set aside for veterans under (a) of this sec-
17 tion. *Villages are small areas - is most of the law*

18 (c) The authority shall adopt regulations in accordance with the
19 Administrative Procedure Act (AS 44.62) to implement the preference in
20 this section for victims of domestic violence. The regulations shall
21 include criteria for determining when a person is a victim of domestic
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

23 * Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

24 (9) to issue a temporary order in domestic violence cases as
25 provided in AS 09.55.660(c); the district judge or magistrate shall
26 notify the superior court immediately upon issuance of the temporary
27 order.

28 * Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska
29 Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-
2 cedure, by allowing the courts to accept for filing petitions which are hand-
3 written in part. Section 1 of this Act also has the effect of amending Rule
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure
5 for obtaining orders for relief from domestic violence.

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

Final CS sent to Leg. Affairs

1-31-80

C.S FOR

HOUSE BILL NO. 392

BY ~~MELONE, ANDERSON, COTTEN, DUNCAN, HAYES, MEEKINS, MILLER, PARR, ROGERS, SCHAEFFER AND GARDINER~~

MWS

IN THE LEGISLATURE OF THE STATE OF ALASKA

ELEVENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to domestic violence; and amending Rules 3, 65, and 76, Rules of Civil Procedure."

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

* Section 1. AS 09.55 is amended by adding new sections to read:

ARTICLE 9. DOMESTIC VIOLENCE.

Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer has ~~reason to believe~~ *a reasonable belief* that an adult or an emancipated minor is a victim of domestic violence, the officer shall use all reasonable means to prevent further domestic violence and to assure the safety of the victim, including

(1) remaining on the scene of the domestic violence as long *the officer believes that* as there would be a danger to the physical safety of the victim without the presence of the peace officer;

(2) assisting the victim in obtaining emergency medical treatment, ~~if necessitated by an assault~~ including transportation to the emergency room of the nearest hospital or to the nearest health provider, *if the peace officer believes it is necessary;*

(3) assisting the victim in removing to a safe place nearby, or to the nearest facility offering shelter to victims of domestic violence;

(4) giving the victim immediate notice of rights provided under this section and of the existence of the nearest facility offering shelter to victims of domestic violence;

(5) arresting the assailant *As provided in AS 12.25.030.*

1 ~~(A) if the peace officer has reasonable cause to believe~~
2 ~~that the assailant has committed domestic violence which is a~~
3 ~~felony,~~

4 ~~(B) if domestic violence which is a misdemeanor is~~
5 ~~committed in his presence, or~~

6 ~~(C) under the circumstances set out in AS 12.25.030(b).~~

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall ~~read and~~ give
9 to the victim/ *AND will read to the victim if circumstances allow:*

10 "As a victim of domestic violence you ~~have the right~~
11 *MAY REQUEST*
~~under law to demand~~ that the officer present do the following
12 things:

- 13 (1) stay as long as needed to make sure that you are safe;
14 (2) take you to the nearest hospital or health provider
15 if you need medical care~~X~~.

16 As a victim of domestic violence you HAVE the
17 right to demand that the officer present do the
18 following things:

- 19 (1) ~~(5)~~ take you to a place nearby where you will be safe if
20 you want to leave here; and
21 (2) ~~(4)~~ tell you how to contact the nearest organization that
22 offers aid or shelter to victims of domestic violence.

23 You HAVE the right to ASK the COURT to ISSUE AN
24 order protecting you AND your children from domestic
25 violence AND providing other necessary assistance,
26 which MAY include ordering the Attacker out of
27 ~~your~~ home and giving you temporary custody of
28 ~~your~~ children.

1 ~~loss of earnings or support or other costs for injuries you~~
2 ~~or your children received.~~

3 If ~~your~~ ^{the} attacker does not obey a court order to get out
4 of the house or to leave you alone, ~~your~~ ^{the} attacker can be
5 arrested immediately. To get a court order contact the
6 superior court in (name of place) and they will help you.
7 You must do this within 10 days. To get an order quickly
8 in an emergency, you may also contact the district court
9 in (name of place) or (name of magistrate).

10 The court order is designed to protect ~~you~~ ^{the} or ~~your~~ ^{the} children.
11 have the right to file a criminal complaint against ~~your~~ ^{the}
12 attacker."

13 (c) If the victim does not understand English, the officer shall
14 make reasonable efforts to explain the rights provided in this section
15 in a language the victim understands.

16 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
17 violence who is an adult or an emancipated minor may, within 10 days of
18 the act of domestic violence, petition a superior court or, if the
19 circumstances described in (c) of this section exist, petition a dis-
20 trict judge or magistrate under (c) of this section for an order

21 (1) restraining the assailant from subjecting the petitioner
22 to domestic violence;

23 (2) directing the assailant to vacate the home of the peti-
24 tioner;

25 (3) restraining the assailant from contacting the petitioner;

26 (4) directing the assailant to pay support for the petitioner
27 or for the minor children in the care of the petitioner if there is an
28 independent legal obligation of the assailant to support the petitioner
29 or the children;

1 (5) awarding temporary custody of a minor child to the peti-
2 tioner;

3 (6) directing the assailant to pay the petitioner for losses
4 suffered as a result of the domestic violence, including medical and
5 moving expenses, loss of earnings or support, and other out-of-pocket
6 losses resulting from injuries sustained.

7 (b) Upon receiving a petition under (a) of this section, the
8 superior court shall schedule a hearing and shall provide at least three
9 days notice to the respondent of the hearing and of the respondent's
10 right to appear and to be heard either in person or by attorney. If,
11 after the hearing, the superior court finds ~~that the petitioner has been~~
12 ~~subjected to domestic violence by the respondent,~~ *the Allegations of*
13 *the petitioner to be true,* the superior court may
14 issue any of the orders for relief described in (a) of this section or
15 any other order the superior court determines to be necessary for the
16 protection of the health, safety and welfare of the petitioner or of a
17 minor child in the care of the petitioner.

18 (c) The superior court or a district judge or magistrate may issue
19 a temporary order without following the notice and hearing requirements
20 of (b) of this section if (1) the petitioner demonstrates a substantial
21 likelihood of immediate danger from the respondent to the health, safety
22 or welfare of the petitioner or of a minor child in the care of the
23 petitioner; and (2) the court or district judge or magistrate determines
24 that the order is necessary to protect the petitioner or a minor child
25 in the care of the petitioner. Immediately after issuing a temporary
26 order under this subsection or upon receiving notice of an order issued
27 by a district judge or magistrate under this subsection, the superior
28 court shall notify the respondent and give the respondent an opportunity
29 to be heard as soon as possible, but in no event later than 10 days,
30 after the order is issued on the question of continuing the temporary

order.

(d) Relief granted by a superior court under this section shall be for a fixed period of time not to exceed 45 days; however, upon motion by the petitioner and after hearing, the superior court may issue an order for an additional period of time as it considers necessary to protect the petitioner from domestic violence. The superior court may modify its order at any time upon petition of either party.

(e) Proceedings under this section do not preclude any other available civil or criminal remedies.

Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court system, in cooperation with interested persons and organizations, shall prepare forms and instructions for the use of persons seeking an order for relief under AS 09.55.660, including forms for waiving filing fees on the basis of indigency. The forms shall conform to the requirements of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that information on the forms may be filled in by legible handwriting. The office of the clerk of each superior court shall make the forms and instructions available to the public.

Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a superior court, district judge or magistrate issues an order described in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or magistrate shall transmit a copy of the order to the appropriate local law enforcement agency. Law enforcement agencies shall establish procedures adequate to inform their peace officers of the existence and terms of orders transmitted to the law enforcement agencies under this section. Peace officers shall use every reasonable means to enforce the orders.

Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement agencies shall establish training procedures for peace officers, or

1 shall include training in existing training procedures for peace offi-
2 cers, which acquaint peace officers with the rights of the victim of
3 domestic violence, the types of orders which may be issued under AS 09.-
4 55.660, and techniques for handling incidents of domestic violence which
5 promote the safety of the victim and reduce the likelihood of recur-
6 rence.

7 *(an intentional violation of an order described*
8 *in AS 09.55.660(a)(3) involving the ~~etc~~ initiation of personal*
9 *contact*
10 *Sec. 09.55.690. CRIMINAL PENALTIES. (a) An intentional violation of an order*
11 *described in AS 09.55.660(a)(1), ^{or} (2), or ~~(3)~~ is a CLASS B MISDEMEANOR.*
by imprisonment for up to 60 days, or by a fine of up to \$500, or by
both. A second violation of an order described in AS 09.55.660(a)(1),
(2) or (3) is punishable by ~~no less than three days imprisonment.~~

12 a minimum sentence of imprisonment not less than 3 consecutive
13 days (72 CONSECUTIVE hours). The execution
14 of a sentence may not be suspended nor may probation or parole
15 be granted until the minimum imprisonment provided in this
16 section has been served, nor may imposition of sentence be
17 suspended, except upon condition that the defendant be
18 imprisoned for no less than the minimum period provided in
19 this section.

20 *consistent with the provisions of AS 12.25.030,*
21 *MAY A*
22 *(b) A peace officer shall arrest and detain a person ^{when he has} found by the*
23 *reasonable cause for believing that the person has committed an act,*
24 *peace officer to be in violation of an order described in AS 09.55.660-*
25 *(a)(1), (2) or (3) if the order is in full force and effect.*

26 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -
27 09.55.700,

28 (1) "domestic violence" means the intentional perpetration of
29 any of the following acts by a person against a household member, a
30 spouse, former spouse, or blood relative of the person:

31 (A) attempting to cause or causing physical harm to the
32 other person or to a minor child in the care of the other person;

33 (B) placing the other person or a minor child in the
34 care of the other person in fear of imminent serious physical harm;

35 (C) causing the other person to engage involuntarily in
36 sexual relations by force, threat of force or duress;

37 (2) "facility offering shelter to victims of domestic vio-
38 lence" includes facilities offering programs which provide emergency or
39 short-term lodging or housing for adults who are victims of domestic
40 violence and their children.

1 * Sec. 2. AS 18.55.330 is amended to read:

2 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
3 VIOLENCE. (a) The authority shall initially offer 50 per cent of the
4 dwelling units in a housing project for rent or sale to veterans. The
5 offer shall be by publication of reasonable notice in a newspaper cir-
6 culated in the area in which the housing project is located. The autho-
7 rity shall set aside these units for rental or sale to veterans for at
8 least 30 days following first publication of the notice before making
9 them available to other residents. If ~~after an additional 30 days~~
10 ^{After the 30 day period,} a unit remains unassigned^x the authority may rent or sell it to any person
11 in the state, provided that victims of domestic violence who move from
12 their homes to avoid further domestic violence [RESIDENTS] ^{shall} have first
13 preference and other residents have second preference.

14 (b) Victims of domestic violence who move from their homes to
15 avoid further domestic violence ^{shall} have first preference for dwelling units
16 in a housing project not set aside for veterans under (a) of this sec-
17 tion.

18 (c) The authority shall adopt regulations in accordance with the
19 Administrative Procedure Act (AS 44.62) to implement the preference in
20 this section for victims of domestic violence. The regulations shall
21 include criteria for determining when a person is a victim of domestic
22 violence based upon the criteria in AS 09.55.650 - 09.55.700.

(d) The preferences in this section for veterans and victims
of domestic violence are applicable to state housing projects.
These preferences are also applicable to housing projects
receiving financial aid, assistance, or cooperation from the
federal government unless the Department of Housing and Urban
Development prohibits or disapproves these preferences.

* Sec. 3. AS 22.15.100 is amended by adding a new paragraph to read:

(9) to issue a temporary order in domestic violence cases as provided in AS 09.55.660(c); the district judge or magistrate shall notify the superior court immediately upon issuance of the temporary order.

* Sec. 4. Section 1 of this Act has the effect of amending Rule 3, Alaska Rules of Civil Procedure, by allowing courts to proceed upon the filing of a

1 petition rather than a complaint, and Rule 76, Alaska Rules of Civil Pro-
2 cedure, by allowing the courts to accept for filing petitions which are hand-
3 written in part. Section 1 of this Act also has the effect of amending Rule
4 65, Alaska Rules of Civil Procedure, by establishing an alternate procedure
5 for obtaining orders for relief from domestic violence.

6
7
8 * Sec. 5. AS 12,25.030 (b) is amended to read:

9 (b) In addition to the authority granted under (a)
10 of this section, a peace officer without a warrant
11 (MAY ARREST A PERSON WHEN HE HAS REASONABLE CAUSE FOR
12 BELIEVING THAT THE PERSON HAS COMMITTED ASSAULT IN THE
13 THIRD DEGREE UNDER AS 11.41.230(a)(1) AGAINST A MEMBER OF
14 THE PERSON'S HOUSEHOLD) :

15 (1) may arrest a person when he has reasonable cause for
16 believing that the person has committed assault in the
17 third degree under AS 11.41.320(a)(1) against a member of the
18 person's household;

19 (2) ^{MAY} shall arrest a person when he has reasonable cause
20 for believing that the person has committed an ~~act in violation~~
21 ~~of an order described in AS 09.55.650-(a)(1), (2), or (3) if~~
22 ~~the order is in full force and effect.~~

23 (3) As used in this section "household" means the social
24 unit comprised or those living together in the same dwelling.

25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92
93
94
95
96
97
98
99
100
offense defined in AS 09.55.690(a).

Original sponsors: Malone, Anderson,
Cotten, et al

Offered: 2/13/80
Referred: Rules

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence, and changing
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
12 has a reasonable belief that an adult or an emancipated minor is a
13 victim of domestic violence, the officer shall use all reasonable means
14 to prevent further domestic violence and to assure the safety of the
15 victim, including

16 (1) remaining on the scene of the domestic violence as long
17 as the officer believes that there would be a danger to the physical
18 safety of the victim without the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical
20 treatment, including transportation to the emergency room of the nearest
21 hospital or to the nearest health provider, if the peace officer be-
22 lieves that emergency medical treatment is necessary;

23 (3) assisting the victim in moving to a safe place nearby, or
24 to the nearest facility offering shelter to victims of domestic vio-
25 lence;

26 (4) giving the victim immediate notice of rights provided
27 under this section and of the existence of the nearest facility offering
28 shelter to victims of domestic violence;

29 (5) arresting the assailant as provided in AS 12.25.030.

1 (b) The notice required in (a)(4) of this section includes the
2 following written statement which the peace officer shall give to the
3 victim and shall also read to the victim if circumstances allow:

4 "As a victim of domestic violence you may request
5 that the officer present do the following things:

- 6 (1) stay as long as needed to make sure that you are safe;
7 (2) take you to the nearest hospital or health provider
8 if you need medical care.

9 As a victim of domestic violence you have the right to
10 demand that the officer present do the following things:

- 11 (1) take you to a place nearby where you will be safe if
12 you want to leave here; and
13 (2) tell you how to contact the nearest organization that
14 offers aid or shelter to victims of domestic violence.

15 You have the right to ask the court to issue an order
16 protecting you and the children from domestic violence and
17 providing other necessary assistance, which may include
18 ordering the attacker out of the home and giving you temporary
19 custody of the children.

20 If the attacker does not obey a court order to get out
21 of the house or to leave you alone, the attacker can be
22 arrested immediately. To get a court order contact the
23 superior court in (name of place) and they will help you.
24 You must do this within 10 DAYS. To get an order quickly
25 in an emergency, you may also contact the district court
26 in (name of place) or (name of magistrate).

27 The court order is designed to protect YOU or the
28 children. You also have the right to file a criminal
29 complaint against the attacker."

1 (c) If the victim does not understand English, the officer shall
2 make reasonable efforts to explain the rights provided in this section
3 in a language the victim understands.

4 Sec. 09.55.660. ORDER FOR RELIEF. (a) A victim of domestic
5 violence who is an adult or an emancipated minor may, within 10 days of
6 the act of domestic violence, petition a superior court or, if the
7 circumstances described in (c) of this section exist, petition a dis-
8 trict judge or magistrate under (c) of this section for an order

9 (1) restraining the assailant from subjecting the petitioner
10 to domestic violence;

11 (2) directing the assailant to vacate the home of the peti-
12 tioner;

13 (3) restraining the assailant from contacting the petitioner,

14 (4) directing the assailant to pay support for the petitioner
15 or for the minor children in the care of the petitioner if there is an
16 independent legal obligation of the assailant to support the petitioner
17 or the children;

18 (5) awarding temporary custody of a minor child to the peti-
19 tioner;

20 (6) directing the assailant to pay the petitioner for losses
21 suffered as a result of the domestic violence, including medical and
22 moving expenses, loss of earnings or support, and other out-of-pocket
23 losses resulting from injuries sustained.

24 (b) Upon receiving a petition under (a) of this section, the
25 superior court shall schedule a hearing and shall provide at least three
26 days notice to the respondent of the hearing and of the respondent's
27 right to appear and to be heard either in person or by attorney. If,
28 after the hearing, the superior court finds the allegations of the
29 petitioner to be true, the superior court may issue any of the orders

1 for relief described in (a) of this section or any other order the
2 superior court determines to be necessary for the protection of the
3 health, safety and welfare of the petitioner or of a minor child in the
4 care of the petitioner.

5 (c) The superior court or a district judge or magistrate may issue
6 a temporary order without following the notice and hearing requirements
7 of (b) of this section if (1) the petitioner demonstrates a substantial
8 likelihood of immediate danger from the respondent to the health, safety
9 or welfare of the petitioner or of a minor child in the care of the
10 petitioner; and (2) the court or district judge or magistrate determines
11 that the order is necessary to protect the petitioner or a minor child
12 in the care of the petitioner. Immediately after issuing a temporary
13 order under this subsection or upon receiving notice of an order issued
14 by a district judge or magistrate under this subsection, the superior
15 court shall notify the respondent and give the respondent an opportunity
16 to be heard as soon as possible, but in no event later than 10 days,
17 after the order is issued on the question of continuing the temporary
18 order.

19 (d) Relief granted by a superior court under this section shall be
20 for a fixed period of time not to exceed 45 days; however, upon motion
21 by the petitioner and after hearing, the superior court may issue an
22 order for an additional period of time as it considers necessary to
23 protect the petitioner from domestic violence. The superior court may
24 modify its order at any time upon petition of either party.

25 (e) Proceedings under this section do not preclude any other
26 available civil or criminal remedies.

27 Sec. 09.55.665. FORMS FOR FILING PETITION. The Alaska court
28 system, in cooperation with interested persons and organizations, shall
29 prepare forms and instructions for the use of persons seeking an order

1 for relief under AS 09.55.660, including forms for waiving filing fees
2 on the basis of indigency. The forms shall conform to the requirements
3 of AS 09.55.660 and the Alaska Rules of Civil Procedure, except that
4 information on the forms may be filled in by legible handwriting. The
5 office of the clerk of each superior court shall make the forms and
6 instructions available to the public.

7 Sec. 09.55.670. NOTIFICATION TO LAW ENFORCEMENT AGENCIES. If a
8 superior court, district judge or magistrate issues an order described
9 in AS 09.55.660(a)(1), (2) or (3), the superior court, district judge or
10 magistrate shall transmit a copy of the order to the appropriate local
11 law enforcement agency. Law enforcement agencies shall establish pro-
12 cedures adequate to inform their peace officers of the existence and
13 terms of orders transmitted to the law enforcement agencies under this
14 section. Peace officers shall use every reasonable means to enforce the
15 orders.

16 Sec. 09.55.680. TRAINING OF PEACE OFFICERS. Law enforcement
17 agencies shall establish training procedures for peace officers, or
18 shall include training in existing training procedures for peace offi-
19 cers, which acquaint peace officers with the rights of the victim of
20 domestic violence, the types of orders which may be issued under AS 09.-
21 55.660, and techniques for handling incidents of domestic violence which
22 promote the safety of the victim and reduce the likelihood of recur-
23 rence.

24 Sec. 09.55.690. CRIMINAL PENALTIES. (a) An intentional violation
25 of an order described in AS 09.55.660(a)(1) or (2) or an intentional
26 violation of an order described in AS 09.55.660(a)(3) involving the
27 confrontation of the victim of domestic violence by the assailant is a
28 class B misdemeanor. A second intentional violation of an order des-
29 cribed in this section is punishable by a minimum sentence of imprison-

1 ment of not less than 72 consecutive hours. The execution of a sentence
2 may not be suspended and probation or parole may not be granted until
3 the minimum imprisonment provided in this section has been served. The
4 imposition of sentence may not be suspended, except upon condition that
5 the defendant be imprisoned for no less than the minimum period provided
6 in this section.

7 (b) A peace officer may arrest a person if he has reasonable cause
8 for believing that the person has violated an order described in (a) of
9 this section.

10 Sec. 09.55.700. DEFINITIONS. For the purposes of AS 09.55.650 -
11 09.55.700,

12 (1) "domestic violence" means the intentional perpetration of
13 any of the following acts by a person against a household member, a
14 spouse, former spouse, or blood relative of the person:

15 (A) attempting to cause or causing physical harm to the
16 other person or to a minor child in the care of the other person;

17 (B) placing the other person or a minor child in the
18 care of the other person in fear of imminent serious physical harm;

19 (C) causing the other person to engage involuntarily in
20 sexual relations by force, threat of force or duress;

21 (2) "facility offering shelter to victims of domestic vio-
22 lence" includes a facility offering programs which provide emergency or
23 short-term lodging or housing for adults who are victims of domestic
24 violence and their children.

25 * Sec. 2. AS 12.25.030(b) is amended to read:

26 (b) In addition to the authority granted under (a) of this sec-
27 tion, a peace officer without a warrant

28 (1) may arrest a person when he has reasonable cause for
29 believing that the person has committed assault in the third degree

1 under AS 11.41.230(a)(1) against a member of the person's household;
2 (2) may arrest a person when he has reasonable cause for be-
3 lieving that the person has committed an offense listed in AS 09.55.-
4 690(a).

5 * Sec. 3. AS 18.55.330 is amended to read:

6 Sec. 18.55.330. PREFERENCE TO VETERANS AND TO VICTIMS OF DOMESTIC
7 VIOLENCE. (a) The authority shall initially offer 50 percent of the
8 dwelling units in a housing project for rent or sale to veterans. The
9 offer shall be by publication of reasonable notice in a newspaper cir-
10 culated in the area in which the housing project is located. The autho-
11 rity shall set aside these units for rental or sale to veterans for at
12 least 30 days following first publication of the notice before making
13 them available to other residents. If [, AFTER AN ADDITIONAL 30 DAYS] a
14 unit remains unassigned after the 30-day period, the authority may rent
15 or sell it to any person in the state, provided that victims of domestic
16 violence who move from their homes to avoid further domestic violence
17 [RESIDENTS] have first preference and other residents have second pre-
18 ference.

19 (b) Victims of domestic violence who move from their homes to
20 avoid further domestic violence have first preference for dwelling units
21 in a housing project not set aside for veterans under (a) of this sec-
22 tion.

23 (c) The authority shall adopt regulations in accordance with the
24 Administrative Procedure Act (AS 44.62) to implement the preference in
25 this section for victims of domestic violence. The regulations shall
26 include criteria for determining when a person is a victim of domestic
27 violence based on AS 09.55.650 - 09.55.700.

28 (d) The preferences in this section for veterans and victims of
29 domestic violence apply to state housing projects. These preferences

1 also apply to housing projects receiving financial aid, assistance, or
2 cooperation from the federal government unless the United States Depart-
3 ment of Housing and Urban Development prohibits or disapproves the pre-
4 ferences.

5 * Sec. 4. AS 22.15.100 is amended by adding a new paragraph to read:

6 (9) to issue a temporary order in domestic violence cases as
7 provided in AS 09.55.660(c); the district judge or magistrate shall
8 notify the superior court immediately upon issuance of a temporary order
9 under this paragraph.

10 * Sec. 5. Section 1 of this Act has the effect of changing Rule 3, Rules
11 of Civil Procedure, by enacting a provision that allows a court to proceed
12 upon the filing of a petition rather than a complaint, and Rule 76, Rules of
13 Civil Procedure, by enacting a provision that allows a court to accept for
14 filing petitions which are handwritten in part. Section 1 of this Act also
15 has the effect of changing Rule 65, Rules of Civil Procedure, by enacting a
16 provision that establishes an alternate procedure for obtaining orders for
17 relief from domestic violence.

Introduced: 3/14/79
Referred: Judiciary

BY MALONE, ANDERSON, COTTEN,
DUNCAN, HAYES, MEEKINS, MILLER,
PARR, ROGERS, SCHAEFFER AND
GARDINER

1 IN THE HOUSE

2 HOUSE BILL NO. 392

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to domestic violence; and amending
7 Rules 3, 65, and 76, Rules of Civil Procedure."

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

9 * Section 1. AS 09.55 is amended by adding new sections to read:

10 ARTICLE 9. DOMESTIC VIOLENCE.

11 Sec. 09.55.650. DUTIES OF PEACE OFFICERS. (a) If a peace officer
12 has reason to believe that an adult or an emancipated minor is a victim
13 of domestic violence, the officer shall use all reasonable means to
14 prevent further domestic violence and to assure the safety of the
15 victim, including

16 (1) remaining on the scene of the domestic violence as long
17 as there would be a danger to the physical safety of the victim without
18 the presence of the peace officer;

19 (2) assisting the victim in obtaining emergency medical
20 treatment if necessitated by an assault, including transportation to the
21 emergency room of the nearest hospital or to the nearest health
22 provider;

23 (3) assisting the victim in removing to a safe place nearby,
24 or to the nearest facility offering shelter to victims of domestic
25 violence;

26 (4) giving the victim immediate notice of rights provided
27 under this section and of the existence of the nearest facility offering
28 shelter to victims of domestic violence;

29 (5) arresting the assailant

safety of the victim

HB 392

*How many more
officers would we
need?*

Section 1

1 (A) if the peace officer has reasonable cause to believe
2 that the assailant has committed domestic violence which is a
3 felony,

4 (B) if domestic violence which is a misdemeanor is
5 committed in his presence, or

6 (C) under the circumstances set out in AS 12.25.030(b).

7 (b) The notice required in (a)(4) of this section includes the
8 following written statement which the peace officer shall read and give
9 to the victim:

10 "As a victim of domestic violence you have the right
11 under law to demand that the officer present do the following
12 things:

- 13 { (1) stay as long as needed to make sure that you are safe;
14 { (2) take you to the nearest hospital or health provider
15 if you need medical care;
16 (3) take you to a place nearby where you will be safe if
17 you want to leave here; and
18 (4) tell you how to contact the nearest organization that
19 offers aid or shelter to victims of domestic violence.

20 You have the right to ask the court to issue an order to
21 do any or all of the following things:

- 22 (1) order your attacker to stop hurting or threatening
23 you or your children;
24 (2) order your attacker to get out of the house;
25 (3) order your attacker not to communicate with you
26 in any way;
27 (4) give you temporary custody of your children;
28 (5) order your attacker to pay for your costs which
29 result from the attack, including medical and moving costs,

*Publication
the perception
that victims
have the
right to
demand that
the person
commit a
crime.
opposed to
other situations*

*Part 5
Make
sure
the
court
has
the
right
to
order
the
attacker
to
pay
for
the
costs
of
the
attacker*