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Source
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Chapter No.
64

AN ACT

Relating to domestic violence and to crime victims and witnesses; amending Rules 3, 4, 65, and 100, Alaska Rules of Civil Procedure, Rules 505 and 613, Alaska Rules of Evidence, and Rule 9, Alaska Rules of Administration; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 17, 1996

Actual Effective Date: Section 71 takes effect September 29, 1996; section 75 takes effect June 18, 1996; remainder of Act takes effect July 1, 1996

AN ACT

1 Relating to domestic violence and to crime victims and witnesses; amending Rules 3, 4, 65,
2 and 100, Alaska Rules of Civil Procedure, Rules 505 and 613, Alaska Rules of Evidence, and
3 Rule 9, Alaska Rules of Administration; and providing for an effective date.

4

5 * **Section 1.** SHORT TITLE. This Act shall be known as the Domestic Violence
6 Prevention and Victim Protection Act of 1996.

7 * **Sec. 2.** AS 09.60.070(c) is amended to read:

8 (c) In this section, "serious criminal offense" means the following offenses:

- 9 (1) murder in any degree;
10 (2) manslaughter;
11 (3) criminally negligent homicide;
12 (4) assault in any degree;
13 (5) kidnapping;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) A person commits the crime of violating a

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

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

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

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

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

(c) In this section, "protective order" means an order issued or filed under AS 18.66.100 - 18.66.180.

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

(8) violates AS 11.46.320 or 11.46.330 by entering or remaining unlawfully on premises or in a propelled vehicle in violation of a provision of an order

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1 issued or filed under AS 18.66.100 - 18.66.180 or issued under former
2 AS 25.35.010(b) or 25.35.020 and, during the violation, possesses on the person a
3 defensive weapon or a deadly weapon, other than an ordinary pocketknife;

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

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

6 (1) shall make an arrest under the circumstances described in
7 AS 18.65.530;

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

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

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

15 (C) violated a condition of release imposed under AS 12.30.025
16 or 12.30.027;

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

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

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

22 or

23 (ii) AS 11.41.270;

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

28 (C) violated conditions imposed as part of the person's release
29 before trial on felony charges brought under AS 11.41.410 - 11.41.455.

30 * Sec. 9. AS 12.25.180(a) is amended to read:

31 (a) When a person is stopped or contacted by a peace officer for the

1 commission of a misdemeanor or the violation of a municipal ordinance, the person
2 may, in the discretion of the contacting peace officer, be issued a citation instead of
3 being taken before a judge or magistrate under AS 12.25.150, unless

4 (1) the person does not furnish satisfactory evidence of identity;

5 (2) the contacting officer has reasonable and probable cause to believe
6 the person is a danger to self or others;

7 (3) the crime for which the person is contacted is one involving
8 violence or harm to another person or to property; [OR]

9 (4) the person asks to be taken before a judge or magistrate under
10 AS 12.25.150; or

11 (5) the peace officer has probable cause to believe the person
12 committed a crime involving domestic violence; in this paragraph, "crime
13 involving domestic violence" has the meaning given in AS 18.66.990.

14 * Sec. 10. AS 12.30.025 is repealed and reenacted to read:

15 Sec. 12.30.025. RELEASE BEFORE TRIAL IN CASES INVOLVING
16 STALKING. (a) In determining the conditions of release under AS 12.30.020 in
17 cases involving stalking but not domestic violence, the court shall consider the
18 following conditions and impose one or more conditions it considers reasonably
19 necessary to protect the alleged victim of the stalking, including ordering the defendant

20 (1) not to subject the victim to further stalking;

21 (2) not to contact the victim other than through counsel;

22 (3) to engage in counseling; if the court directs the defendant to engage
23 in personal counseling, the court shall provide in the order that the counseling must
24 propose alternatives to aggression if that type of counseling is available;

25 (4) to refrain from the consumption of alcohol or the use of drugs.

26 (b) As used in this section,

27 (1) "domestic violence" has the meaning given in AS 18.66.990;

28 (2) "stalking" means a violation of AS 11.41.260 or 11.41.270.

29 * Sec. 11. AS 12.30 is amended by adding a new section to read:

30 Sec. 12.30.027. RELEASE IN DOMESTIC VIOLENCE CASES. (a) Before
31 ordering release before or after trial, or pending appeal, of a person charged with or

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1 convicted of a crime involving domestic violence, the court shall consider the safety
2 of the alleged victim or other household member. To protect the alleged victim,
3 household member, and the public and to reasonably assure the person's appearance,
4 the court may impose bail and any of the conditions authorized under AS 12.30.020,
5 any of the provisions of AS 18.66.100(c)(1) - (7) and (11), and any other condition
6 necessary to protect the alleged victim, household member, and the public, and to
7 ensure the appearance of the person in court, including ordering the person to refrain
8 from the consumption of alcohol.

9 (b) A court may not order or permit a person released under (a) of this section
10 to return to the residence of the alleged victim or the residence of a petitioner who has
11 a protective order directed to the person and issued or filed under AS 18.66.100 -
12 18.66.180.

13 (c) If the court imposes conditions of release under (a) of this section, it shall
14 (1) issue a written order specifying the conditions of release;
15 (2) provide a copy of the order to the person arrested or charged; and
16 (3) immediately distribute a copy of the order to the law enforcement
17 agency that arrested the person.

18 (d) When a person is released from custody under (a) of this section,
19 (1) from a correctional facility, the correctional facility shall notify the
20 prosecuting authority and the prosecuting authority shall make reasonable efforts to
21 immediately notify the alleged victim of the release, and to furnish the alleged victim
22 with a copy of the order setting any conditions of release;

23 (2) from other than a correctional facility, the arresting authority shall
24 make reasonable efforts to immediately notify the alleged victim of the release, and
25 to furnish the alleged victim with a copy of the order setting any conditions of release.

26 (e) A person arrested for a crime involving domestic violence may not be
27 released from custody until the person has appeared in person before a judicial officer
28 or telephonically for arraignment.

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

31 (g) In this section, "crime involving domestic violence" has the meaning given

1 in AS 18.66.990.

2 * Sec. 12. AS 12.55.015 is amended by adding a new subsection to read:

3 (g) Notwithstanding (a) of this section, the court shall order the forfeiture to
4 the commissioner of public safety or a municipal law enforcement agency of a deadly
5 weapon that was in the actual possession of or used by the defendant during the
6 commission of a crime involving domestic violence.

7 * Sec. 13. AS 12.55 is amended by adding a new section to read:

8 Sec. 12.55.101. ADDITIONAL CONDITIONS OF PROBATION FOR
9 DOMESTIC VIOLENCE CRIMES. (a) Before granting probation to a person
10 convicted of a crime involving domestic violence, the court shall consider the safety
11 and protection of the victim and any member of the victim's family. If a person
12 convicted of a crime involving domestic violence is placed on probation, the court may
13 order the conditions authorized in AS 12.55.100 and AS 18.66.100(c)(1) - (7) and (11),
14 and may

15 (1) require the defendant to participate in and complete to the
16 satisfaction of the court one or more programs for the rehabilitation of perpetrators
17 of domestic violence that meet the standards set by the Department of Corrections
18 under AS 44.28.020(b), if the program is available in the community where the
19 defendant resides;

20 (2) require the defendant to refrain from the consumption of alcohol;
21 and

22 (3) impose any other condition necessary to protect the victim and any
23 members of the victim's family, or to rehabilitate the defendant.

24 (b) If the defendant is not in custody, the defendant shall pay the costs of an
25 evaluation or a program of rehabilitation ordered under (a)(1) - (3) of this section. If
26 the defendant is in custody, the responsibility for costs shall be as provided in
27 AS 33.30.028.

28 * Sec. 14. AS 12.55.135(c) is amended to read:

29 (c) A defendant convicted of assault in the fourth degree committed in
30 violation of the provisions of an order issued or filed under AS 18.66.100 - 18.66.180
31 or issued under former AS 25.35.010 or 25.35.020 shall be sentenced to a minimum

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1 term of imprisonment of 20 days.

2 * Sec. 15. AS 12.55.185(3) is repealed and reenacted to read:

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

4 * Sec. 16. AS 12.61.015(a) is amended to read:

5 (a) If a victim of a felony or a crime involving domestic violence
6 [ASSAULT] requests, the prosecuting attorney shall make a reasonable effort to

7 (1) confer with the person against whom the offense has been
8 perpetrated about that person's testimony before the defendant's trial;

9 (2) in a manner reasonably calculated to give prompt actual notice,
10 notify the victim

11 (A) of the defendant's conviction and the crimes of which the
12 defendant was convicted;

13 (B) of the victim's right in a case that is a felony to make a
14 written or oral statement for use in preparation of the defendant's presentence
15 report, and of the victim's right to appear personally at the defendant's
16 sentencing hearing to present a written statement and to give sworn testimony
17 or an unsworn oral presentation;

18 (C) of the address and telephone number of the office that will
19 prepare the presentence report; and

20 (D) of the time and place of the sentencing proceeding;

21 (3) notify the victim in writing of the final disposition of the case
22 within 30 days after final disposition of the case;

23 (4) confer with the victim of a crime involving domestic violence
24 concerning a proposed plea agreement before entering into an agreement.

25 * Sec. 17. AS 12.61.120(b) is amended to read:

26 (b) If the defendant is proceeding without counsel in a case involving a
27 charged violation of AS 11.41, AS 11.46.300 - 11.46.330, AS 11.56.740, 11.56.810,
28 AS 11.61.190 - 11.61.210, or a crime involving domestic violence, [AS 11.56.810,
29 OR 11.61.190 - 11.61.210] and the court finds that the defendant may pose a
30 continuing threat to the victim of or witness to the offense charged, the court shall
31 protect the address and telephone number of the victim or witness by providing the

1 information only to a person specified by the court or by imposing other restrictions
2 that the court considers necessary. When an address or telephone number is released
3 to a person specified by the court under this subsection, that person, who shall be
4 ordered not to disclose the information to the defendant, shall contact the victim or
5 witness on behalf of the defendant, and the defendant shall meet or speak with the
6 victim or witness only in the presence of that person.

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

8 (c) If a defendant or a person acting on behalf of a defendant
9 [REPRESENTING THE DEFENDANT, INCLUDING THE DEFENDANT'S
10 ATTORNEY OR A PERSON SPECIFIED BY THE COURT UNDER (b) OF THIS
11 SECTION,] contacts the victim of an offense with which the defendant is or could be
12 charged, the person shall clearly inform the victim

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

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

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

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

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

30 (e) If a victim or witness requests a transcript or other copy of a recorded
31 statement taken under (d) of this section, the defense shall prepare the transcript or other

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1 copy and provide it to the person whose statement was recorded.

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

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

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

6 The defendant accused of a sexual offense, the defendant's counsel, or an investigator
7 or other person acting on behalf of the defendant, may not

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

15 (2) obtain a statement from the victim of the offense or a witness to the
16 offense, unless,

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

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

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

28 (c) If an attorney, or a person acting on behalf of the defendant for an attorney,
29 violates this section, the court shall refer the violation to the Disciplinary Board of the
30 Alaska Bar Association as a grievance.

31 (d) In this section,

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

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

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

8 (1) the statement is reliable;

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

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

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

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

15 (4) "person acting on behalf of a defendant" includes the defendant's
16 attorney, an agent of the defendant or the defendant's attorney, or a person specified by
17 the court under AS 12.61.120(b) or an agent of that person, but does not include the
18 defendant;

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

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

22 (22) "serious offense" means a conviction for a felony offense, a crime
23 involving domestic violence, or a violation or attempted violation of any of the
24 following laws, or of the laws of another jurisdiction with substantially similar
25 elements:

26 (A) AS 11.41.410 - 11.41.470;

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

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

29 (D) AS 11.66.100 - 11.66.130; or

30 (E) former AS 11.40.080, 11.40.110, 11.40.130, or 11.40.200 -
31 11.40.420, if committed before January 1, 1980;

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1 * Sec. 23. AS 12.62.900 is amended by adding a new paragraph to read:

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

4 * Sec. 24. AS 18.65.240(a) is amended to read:

5 (a) A person may not be appointed as a police officer, except on a
6 probationary basis, unless the person (1) has satisfactorily completed a basic program
7 of police training approved by the council, **which includes at least 12 hours of**
8 **instruction regarding domestic violence as defined in AS 18.66.990**, and (2)
9 possesses other qualifications the council has established for the employment of police
10 officers, including [BUT NOT LIMITED TO] minimum age, education, physical and
11 mental standards, citizenship, moral character, and experience. The council shall
12 prescribe the means of presenting evidence of fulfillment of these requirements.

13 * Sec. 25. AS 18.65.242(b) is amended to read:

14 (b) The council shall

15 (1) prescribe the means of presenting evidence of fulfillment of the
16 requirements set out in (a) of this section; and

17 (2) issue a certificate evidencing satisfaction of the requirements of (a)
18 of this section to an applicant who

19 (A) satisfies the requirements of (a)(1) of this section; and

20 (B) meets the minimum education standards of (a)(2) of this
21 section by satisfactorily completing a training program for correctional,
22 probation, or parole officers established under AS 18.65.230, **including**
23 **training regarding domestic violence that contains the subjects set out in**
24 **AS 18.66.310(d)**, or a course of instruction in another jurisdiction equivalent
25 in content and quality to that required by the council for approved correctional,
26 probation, or parole officer education and training programs in this state.

27 * Sec. 26. AS 18.65.510 is amended to read:

28 Sec. 18.65.510. DOMESTIC VIOLENCE TRAINING. (a) Each established
29 police training program in the state shall provide training that acquaints police officers
30 with

31 (1) laws relating to substantive crimes and rules of criminal procedure

1 applicable in cases involving domestic violence;

2 (2) techniques for handling incidents of domestic violence that promote
3 the safety of the victim and the officer and that reduce the likelihood of recurrence;

4 (3) the investigation and management of cases involving domestic
5 violence and report writing for those cases;

6 (4) organizations in the state that offer aid or shelter to victims of
7 domestic violence;

8 (5) [(4)] procedures applicable in the prosecution of cases involving
9 domestic violence;

10 (6) [(5)] orders that may be issued by or filed with a court under
11 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020];

12 (7) [AND (6)] the notification to be given to victims of domestic
13 violence under AS 18.65.520; and

14 (8) the subjects set out in AS 18.66.310(d).

15 (b) In providing a training program under this section, each agency or
16 institution offering an established police training program shall consult with the
17 Council on Domestic Violence and Sexual Assault and interested individuals and
18 organizations providing assistance to victims of domestic violence.

19 * Sec. 27. AS 18.65 is amended by adding a new section to read:

20 Sec. 18.65.515. DUTIES OF PEACE OFFICER IN A CRIME INVOLVING
21 DOMESTIC VIOLENCE. (a) A peace officer investigating a crime involving
22 domestic violence shall protect the victim and any member of the victim's family and
23 prevent further violence by

24 (1) transporting an adult victim and any member of the victim's family
25 from the place of the offense or the place of contact, to a location within the
26 community where the offense occurred that is a shelter, a safe home, or another
27 location in the community requested by the victim;

28 (2) assisting the victim in removing from the residence essential items
29 belonging to the victim, such as clothing, vehicles, medication, personal records, and
30 legal documents;

31 (3) assisting the victim and any member of the victim's family in

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1 obtaining medical treatment necessitated by the offense, by contacting emergency
2 medical services or by transporting the victim to a local medical facility, if available
3 in the community where the offense occurred; and

4 (4) providing notice of the rights of victims and services available to
5 victims of domestic violence as provided in AS 18.65.520.

6 (b) If a peace officer investigating a crime involving domestic violence
7 determines that it is necessary to protect the victim or the victim's family from
8 domestic violence or to protect the officer or the public during the investigation, the
9 officer may (1) seize a deadly weapon in plain view of the officer, and (2) if a deadly
10 weapon was actually possessed during or used in the domestic violence, seize all
11 deadly weapons owned, used, possessed, or within the control of the alleged
12 perpetrator. If the weapon is not needed as evidence in a criminal case, the law
13 enforcement agency having custody of the weapon, within 24 hours of making the
14 determination that the weapon is not needed as evidence in a criminal case, shall make
15 the weapon available for pickup by the owner of the weapon during regular business
16 hours.

17 * **Sec. 28.** AS 18.65.520(a) is repealed and reenacted to read:

18 (a) A peace officer investigating a crime involving domestic violence shall
19 orally and in writing inform the victim of the rights of victims of domestic violence
20 and the services available to them. The notice must be in substantially the following
21 form:

22 If you are the victim of domestic violence and you believe that
23 law enforcement protection is needed for your physical safety, you have
24 the right to request that the officer assist in providing for your safety,
25 including asking for an emergency protective order.

26 You may also request the officer to assist you in obtaining your
27 essential personal belongings and locating and taking you to a safe
28 place, including a designated meeting place or shelter, the residence of
29 a household member or friend, or a similar place of safety. In some
30 places in Alaska there are organizations that provide aid and shelter to
31 victims of domestic violence. The nearest organization is located at

1 _____
2 If you are in need of medical treatment, you may request that
3 the officer assist you in obtaining medical treatment.

4 You may obtain information about whether the prosecuting
5 attorney will file a criminal complaint about the domestic violence.
6 Additionally, the victim/witness assistance program of the Department
7 of Law may be able to help you. This information is available from the
8 district attorney's office, which is located at _____.

9 You also have the right to file a petition in court requesting a
10 protective order that may include any of the following provisions:

11 (1) prohibit your abuser from threatening to commit or
12 committing further acts of domestic violence;

13 (2) prohibit your abuser from stalking, harassing,
14 telephoning, contacting, or otherwise communicating with you, directly
15 or indirectly;

16 (3) remove your abuser from your residence;

17 (4) order your abuser to stay away from your residence,
18 school, place of employment, or any other specified place frequented by
19 you or another designated household member;

20 (5) prohibit your abuser from entering your vehicle or
21 a vehicle you occupy;

22 (6) prohibit your abuser from using or possessing a
23 deadly weapon if the court finds your abuser was in the actual
24 possession of or used a weapon during the commission of your abuse;

25 (7) direct your abuser to surrender any firearm owned or
26 possessed by that person if the court finds your abuser was in the actual
27 possession of or used a firearm during the commission of your abuse;

28 (8) request a peace officer to accompany you to your
29 residence to ensure your safe possession of the residence, vehicle, or
30 other items, or to ensure your safe removal of personal items from the
31 residence;

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1 (9) award temporary custody of a minor child to the
2 petitioner and may arrange for visitation with a minor child if the safety
3 of the child and the petitioner can be protected;

4 (10) grant you possession and use of a vehicle and other
5 essential personal effects;

6 (11) prohibit your abuser from consuming controlled
7 substances;

8 (12) require your abuser to pay support for you or a
9 minor child in your care if there is an independent legal obligation of
10 your abuser to support you or the child;

11 (13) require your abuser to reimburse you for your
12 expenses caused by domestic violence, including medical bills, or for
13 your costs in getting a protective order;

14 (14) order your abuser to participate in an intervention
15 program for batterers; and

16 (15) other relief the court determines to be necessary for
17 your safety.

18 The forms you need to obtain a protective order are available
19 from the nearest court. It is not necessary to have an attorney to obtain
20 a protective order, but you may consult an attorney if you choose. If
21 you would like help obtaining a protective order, you may contact the
22 nearest domestic violence program located at _____. The
23 program can also tell you about other resources available in this
24 community for information about domestic violence, treatment of
25 injuries, and places of safety and shelter.

26 You may also qualify for compensation from the Violent Crimes
27 Compensation Board. The board may be contacted at _____

28 _____.

29 * Sec. 29. AS 18.65 is amended by adding new sections to article 6 to read:

30 Sec. 18.65.530. MANDATORY ARREST FOR CRIMES INVOLVING
31 DOMESTIC VIOLENCE, VIOLATION OF PROTECTIVE ORDERS, AND

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

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

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

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

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

16 (1) prior complaints of domestic violence;

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

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

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

21 (c) A peace officer is not required to make an arrest under (a) of this section
22 if the officer has received authorization not to arrest from a prosecuting attorney in the
23 jurisdiction in which the offense under investigation arose.

24 (d) When investigating a crime involving domestic violence, a peace officer
25 may not threaten or suggest the possible arrest of all persons involved in the same
26 incident in a manner that would have a tendency to discourage requests for
27 intervention by law enforcement in incidents involving domestic violence.

28 (e) In addition to the contents of any other report, a peace officer who does
29 not make an arrest after investigating a complaint of domestic violence, or who arrests
30 two or more persons based on the same incident, shall describe in writing the reasons
31 for not making an arrest or for arresting more than one person.

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

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

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

14 (c) A petitioner or respondent who is the subject of a protective order may
15 request the Department of Public Safety to correct information about the order in the
16 central registry. The person requesting the correction has the burden of proving that
17 the information is inaccurate or incomplete. The person may appeal an adverse
18 decision to the court under applicable court rules for appealing the decision of an
19 administrative agency. On appeal, the appellant has the burden of showing that the
20 department's action was an abuse of discretion. An appeal filed under this subsection
21 may not collaterally attack a protective order, challenge the grounds upon which the
22 order was based, or challenge the evidence submitted in support of the order.

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

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

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

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

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

- 1 (1) is 21 years of age or older;
- 2 (2) is eligible to own or possess a firearm under the laws of this state
3 and under federal law;
- 4 (3) has not been convicted of and is not currently charged under a
5 complaint, information, indictment, or presentment with a felony under the laws of this
6 state or a similar law of another jurisdiction;
- 7 (4) has not been convicted, within the five years immediately preceding
8 the application, of, and is not currently charged under a complaint, information,
9 indictment, or presentment with any of the following misdemeanor offenses or similar
10 laws of another jurisdiction:
- 11 (A) AS 11.41.230, 11.41.250, 11.41.270;
- 12 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;
- 13 (C) AS 11.51.130;
- 14 (D) AS 11.56.330, 11.56.340, former AS 11.56.350, 11.56.380,
15 11.56.545, 11.56.700, 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800,
16 11.56.805;
- 17 (E) AS 11.61.110, 11.61.120, 11.61.210, 11.61.220, 11.61.240;
- 18 [OR]
- 19 (F) AS 11.71.050, 11.71.060; **or**
- 20 **(G) a crime involving domestic violence as defined in**
21 **AS 18.66.990;**
- 22 (5) has not been convicted of two or more class A misdemeanors of
23 this state or similar laws of another jurisdiction within the five years immediately
24 preceding the application;
- 25 (6) has not within the 10 years immediately preceding the application
26 been adjudicated a delinquent for a felony offense of this state or another jurisdiction;
- 27 (7) is not now suffering, and has not within the five years immediately
28 preceding the application suffered, from a mental illness as defined in AS 47.30.915;
- 29 (8) has not been adjudicated as mentally incapacitated by a court of this
30 state, another state, territory, or jurisdiction, or of the United States, unless the
31 guardianship or similar arrangement has been closed or terminated and five years have

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1 elapsed since the closure or other termination;

2 (9) is a resident of the state and has been for the one year immediately
3 preceding the application for a permit;

4 (10) has not been discharged from the armed forces of the United
5 States under dishonorable conditions;

6 (11) is not an alien who is residing in the United States illegally or a
7 former citizen of the United States who has renounced the person's citizenship;

8 (12) is not an unlawful user of, or addicted to, a controlled substance;

9 (13) is not now the respondent in a protective order under
10 AS 18.66.100 - 18.66.180 or the subject of an injunction under former AS 25.35.010
11 - 25.35.020 unless the protective order or injunction has been dissolved or has
12 expired;

13 (14) is not now in and has not in the three years immediately preceding
14 the application been ordered by a court to complete an alcohol treatment program;

15 (15) is not now in and has not in the three years immediately preceding
16 the application entered a substance abuse treatment program; and

17 (16) has demonstrated competence with handguns as provided in
18 AS 18.65.715.

19 * Sec. 31. AS 18.65.735(a) is amended to read:

20 (a) The department shall immediately suspend a permit to carry a concealed
21 handgun if a permittee is arrested for or formally charged with a crime that would
22 disqualify the permittee under AS 18.65.705(3) - (4) from being eligible for a permit
23 to carry a concealed handgun, [OR] is the respondent in a protective order under
24 AS 18.66.100 - 18.66.180, or is the subject of an injunction under former
25 AS 25.35.010 - 25.35.020. A suspension of a permit remains in effect until the permit
26 is revoked under AS 18.65.740, the department has been notified of a disposition
27 favorable to the defendant or the defendant has been released from custody without
28 being charged, or the protective order under AS 18.66.100 - 18.66.180 or the
29 injunction under former AS 25.35.010 - 25.35.020 is dissolved or expires without
30 being renewed. In this subsection, "disposition favorable to the defendant" means a
31 dismissal by the prosecutor or an adjudication by a court other than a conviction or a

1 suspended imposition of sentence.

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

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

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

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

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

14 ARTICLE 2. PROTECTIVE ORDERS.

15 Sec. 18.66.100. PROTECTIVE ORDERS: ELIGIBLE PETITIONERS;
16 RELIEF. (a) A person who is or has been a victim of a crime involving domestic
17 violence may file a petition in the district or superior court for a protective order
18 against a household member. A parent, guardian, or other representative appointed by
19 the court under this section, may file a petition for a protective order on behalf of a
20 minor. The court may appoint a guardian ad litem or attorney to represent the minor.
21 Notwithstanding AS 25.24.310 or this section, the office of public advocacy may not
22 be appointed as a guardian ad litem or attorney for a minor in a petition filed under
23 this section unless the petition has been filed on behalf of the minor.

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

31 (1) (c)(1) of this section are effective until further order of the court;

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1 (2) (c)(2) - (16) of this section are effective for six months unless
2 earlier dissolved by court order.

3 (c) A protective order under this section may

4 (1) prohibit the respondent from threatening to commit or committing
5 domestic violence, stalking, or harassment;

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

8 (3) remove and exclude the respondent from the residence of the
9 petitioner, regardless of ownership of the residence;

10 (4) direct the respondent to stay away from the residence, school, or
11 place of employment of the petitioner or any specified place frequented by the
12 petitioner or any designated household member;

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

15 (6) prohibit the respondent from using or possessing a deadly weapon
16 if the court finds the respondent was in the actual possession of or used a weapon
17 during the commission of domestic violence;

18 (7) direct the respondent to surrender any firearm owned or possessed
19 by the respondent if the court finds that the respondent was in the actual possession
20 of or used a firearm during the commission of the domestic violence;

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

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

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

27 (9) award temporary custody of a minor child to the petitioner and may
28 arrange for visitation with a minor child if the safety of the child and the petitioner can
29 be protected; if visitation is allowed, the court may order visitation under the
30 conditions provided in AS 25.20.061;

31 (10) give the petitioner possession and use of a vehicle and other

1 essential personal items, regardless of ownership of the items;

2 (11) prohibit the respondent from consuming controlled substances;

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

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

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

11 (15) order the respondent, at the respondent's expense, to participate
12 in (A) a program for the rehabilitation of perpetrators of domestic violence that meets
13 the standards set by the Department of Corrections under AS 44.28.020(b), or (B)
14 treatment for the abuse of alcohol or controlled substances, or both;

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

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

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

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

23 (e) A court may not deny a petition for a protective order under this section
24 solely because of a lapse of time between an act of domestic violence and the filing
25 of the petition.

26 Sec. 18.66.110. EX PARTE AND EMERGENCY PROTECTIVE ORDERS.

27 (a) A person who is a victim of a crime involving domestic violence may file a
28 petition under AS 18.66.100(a) and request an ex parte protective order. If the court
29 finds that the petition establishes probable cause that a crime involving domestic
30 violence has occurred, it is necessary to protect the petitioner from domestic violence,
31 and if the petitioner has certified to the court in writing the efforts, if any, that have

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1 been made to provide notice to the respondent, the court shall ex parte and without
2 notice to the respondent issue a protective order. An ex parte protective order may
3 grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and (16). An ex
4 parte protective order expires 20 days after it is issued unless dissolved earlier by the
5 court at the request of either the petitioner or the respondent and after notice and, if
6 requested, a hearing. If a court issues an ex parte protective order, the court shall have
7 the order delivered to the appropriate local law enforcement agency for expedited
8 service and for entry into the central registry of protective orders under AS 18.65.540.

9 (b) A peace officer, on behalf of and with the consent of a victim of a crime
10 involving domestic violence, may request an emergency protective order from a
11 judicial officer. The request may be made orally or in writing based upon the sworn
12 statement of a peace officer, and in person or by telephone. If the court finds probable
13 cause to believe that the victim is in immediate danger of domestic violence based on
14 an allegation of the recent commission of a crime involving domestic violence, the
15 court ex parte shall issue an emergency protective order. In an emergency protective
16 order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),
17 (10), (11), and (16). An emergency protective order expires 72 hours after it is issued
18 unless dissolved earlier by the court at the request of the petitioner.

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

21 (1) place the provisions of an oral order in writing on a form provided
22 by the court and file the written order with the issuing court by the end of the judicial
23 day after it was issued;

24 (2) provide a copy of the order to the petitioner;

25 (3) serve a copy of the order on the respondent; and

26 (4) comply with the requirements of AS 18.65.540 for ensuring that the
27 order is entered into the central registry of protective orders under AS 18.65.540.

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

31 Sec. 18.66.120. MODIFICATION OF PROTECTIVE ORDERS. (a) Either

1 the petitioner or the respondent may request modification of a protective order. If a
2 request is made for modification of

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

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

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

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

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

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

20 Sec. 18.66.130. SPECIFIC PROTECTIVE ORDERS. (a) If a respondent in
21 a protective order issued under AS 18.66.100 - 18.66.180 is prohibited from
22 communicating with the petitioner, excluded from the residence of the petitioner, or
23 ordered to stay away from the petitioner as provided in AS 18.66.100(c)(2) - (5), an
24 invitation by the petitioner to communicate, enter the residence or vehicle, or have
25 other prohibited contact with the petitioner does not waive or nullify any provision in
26 a protective order.

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

29 (c) A court may not order parties into mediation or refer them to mediation
30 for resolution of the issues arising from a petition for a protective order under
31 AS 18.66.100 - 18.66.180.

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

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

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

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

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

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

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

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

31 (b) In addition to other information required, a petition for a protective order

1 must include a statement of pending civil actions or domestic violence criminal actions
2 involving either the petitioner or the respondent. While a protective order is in effect
3 or a petition for protective order is pending, both the petitioner and respondent have
4 a continuing duty to inform the court of pending civil actions or domestic violence
5 criminal actions involving either the petitioner or the respondent.

6 (c) The office of the clerk of each superior and district court shall make
7 available to the public under AS 18.66.100 - 18.66.180 the forms a person seeking a
8 protective order under AS 18.66.100 - 18.66.180 may need and instructions for the use
9 of the forms. The clerk shall provide assistance in completing the forms and filing the
10 forms.

11 (d) Filing fees may not be charged in any action seeking only the relief
12 provided in this chapter.

13 Sec. 18.66.160. SERVICE OF PROCESS. (a) Process issued under this
14 chapter shall be promptly served and executed. If process is to be served upon a
15 person believed to be present or residing in a municipality, as defined in AS 29.71.800,
16 or in an unincorporated community, process shall be served by a peace officer of that
17 municipality or unincorporated community who has jurisdiction within the area of
18 service. If a peace officer of the municipality or unincorporated community who has
19 jurisdiction is not available, a superior court, district court, or magistrate may designate
20 any other peace officer to serve and execute process. A state peace officer shall serve
21 process in any area that is not within the jurisdiction of a peace officer of a
22 municipality or unincorporated community. A peace officer shall use every reasonable
23 means to serve process issued under this chapter.

24 (b) Service of process under (a) of this section does not preclude a petitioner
25 from using any other available means to serve process issued under this chapter.

26 (c) Fees for service of process may not be charged in a proceeding seeking
27 only the relief provided in this chapter.

28 Sec. 18.66.170. NOTIFICATION OF LAW ENFORCEMENT AGENCIES.
29 When a court issues or accepts for filing a protective order under this chapter, it shall
30 send a copy of the order to the appropriate local law enforcement agency. Each law
31 enforcement agency shall establish procedures to inform peace officers of protective

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1 orders. Peace officers shall use every reasonable means to enforce a protective order
2 issued or filed under this chapter.

3 Sec. 18.66.180. CIVIL LIABILITY. A person may not bring a civil action for
4 damages against the state, its officers, agents, or employees, or a law enforcement
5 agency, its officers, agents, or employees for any failure to comply with the provisions
6 of this chapter.

7 ARTICLE 3. EDUCATION AND PREVENTION.

8 Sec. 18.66.300. STANDARDS AND PROCEDURES FOR HEALTH CARE
9 IN DOMESTIC VIOLENCE CASES. (a) The Department of Health and Social
10 Services shall adopt standards and procedures for the delivery of services to victims
11 of domestic violence by health care facilities and practitioners of the healing arts and
12 personnel in those facilities. The standards and procedures shall be formulated in
13 consultation with the Council on Domestic Violence and Sexual Assault, the
14 Department of Commerce and Economic Development, private agencies that provide
15 services for victims of domestic violence, and persons with expertise in providing
16 health care and other services to victims of domestic violence.

17 (b) The Department of Health and Social Services shall make available to
18 health care facilities and practitioners of the healing arts and personnel in those
19 facilities a written notice of the rights of victims of domestic violence and the services
20 available to them. The notice shall be substantially similar to the notice provided in
21 AS 18.65.520(a).

22 (c) The Department of Health and Social Services may adopt regulations to
23 implement and interpret this section.

24 Sec. 18.66.310. CONTINUING EDUCATION FOR PUBLIC EMPLOYEES,
25 COURT SYSTEM EMPLOYEES, AND FOR PROSECUTING AUTHORITIES. (a)
26 Employers of state or local public employees, including employees of public schools,
27 shall, in consultation with the Council on Domestic Violence and Sexual Assault,
28 provide continuing education in domestic violence for the public employees who are
29 required by law to report abuse or neglect of children under AS 47.17.020.

30 (b) The administrative director of the Alaska Court System shall, in
31 consultation with the Council on Domestic Violence and Sexual Assault, provide

1 continuing education in domestic violence for judicial officers and court clerks who
2 have contact with parties involved in domestic violence.

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

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

9 (1) the nature, extent, and causes of domestic violence;

10 (2) procedures designed to promote the safety of the victim and other
11 household members;

12 (3) resources available to victims and perpetrators of domestic violence;

13 and

14 (4) the lethality of domestic violence.

15 ARTICLE 4. GENERAL PROVISIONS.

16 Sec. 18.66.990. DEFINITIONS. In this chapter,

17 (1) "council" means the Council on Domestic Violence and Sexual
18 Assault;

19 (2) "crisis intervention and prevention program" means a community
20 program that provides information, education, counseling, and referral services to
21 individuals experiencing personal crisis related to domestic violence or sexual assault
22 and to individuals in personal or professional transition, excluding correctional half-
23 way houses, outpatient mental health programs, and drug or alcohol rehabilitation
24 programs;

25 (3) "domestic violence" and "crime involving domestic violence" mean
26 one or more of the following offenses or a law or ordinance of another jurisdiction
27 having elements similar to these offenses, or an attempt to commit the offense, by a
28 household member against another household member:

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

30 (B) burglary under AS 11.46.300 - 11.46.310;

31 (C) criminal trespass under AS 11.46.320 - 11.46.330;

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- 1 (D) arson or criminally negligent burning under AS 11.46.400 -
- 2 11.46.430;
- 3 (E) criminal mischief under AS 11.46.480 - 11.46.486;
- 4 (F) terroristic threatening under AS 11.56.810;
- 5 (G) violating a domestic violence order under AS 11.56.740; or
- 6 (H) harassment under AS 11.61.120(a)(2) - (4);
- 7 (4) "domestic violence program" means a program that provides
- 8 services to the victims of domestic violence, their families, or perpetrators of domestic
- 9 violence;
- 10 (5) "household member" includes
- 11 (A) adults or minors who are current or former spouses;
- 12 (B) adults or minors who live together or who have lived
- 13 together;
- 14 (C) adults or minors who are dating or who have dated;
- 15 (D) adults or minors who are engaged in or who have engaged
- 16 in a sexual relationship;
- 17 (E) adults or minors who are related to each other up to the
- 18 fourth degree of consanguinity, whether of the whole or half blood or by
- 19 adoption, computed under the rules of civil law;
- 20 (F) adults or minors who are related or formerly related by
- 21 marriage;
- 22 (G) persons who have a child of the relationship; and
- 23 (H) minor children of a person in a relationship that is described
- 24 in (A) - (G) of this paragraph;
- 25 (6) "judicial day" means any Monday through Friday that is not a state
- 26 holiday and on which the court clerk's offices are officially opened to receive legal
- 27 documents for filing;
- 28 (7) "local community entity" means a city or borough or other political
- 29 subdivision of the state, a nonprofit organization, or a combination of these;
- 30 (8) "petitioner" includes a person on whose behalf an emergency
- 31 protective order has been requested under AS 18.66.110(b);

1 (9) "sexual assault" means a crime specified in AS 11.41.410 -
2 11.41.450;

3 (10) "sexual assault program" means a program that provides services
4 to the victims of sexual assault, their families, or perpetrators of sexual assault.

5 * Sec. 34. AS 22.10.020(a) is amended to read:

6 (a) The superior court is the trial court of general jurisdiction, with original
7 jurisdiction in all civil and criminal matters, including probate and guardianship of
8 minors and incompetents. Except for a petition for a protective order [INJUNCTIVE
9 RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR 25.35.020], an action that
10 falls within the concurrent jurisdiction of the superior court and the district court may
11 not be filed in the superior court, except as provided by rules of the supreme court.

12 * Sec. 35. AS 22.15.030 is amended to read:

13 Sec. 22.15.030. CIVIL JURISDICTION. (a) The district court has jurisdiction
14 of civil cases, including foreign judgments filed under AS 09.30.200 and arbitration
15 proceedings under AS 09.43.170, as follows:

16 (1) for the recovery of money or damages when the amount claimed
17 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

18 (2) for the recovery of specific personal property, when the value of
19 the property claimed and the damages for the detention do not exceed \$50,000;

20 (3) for the recovery of a penalty or forfeiture, whether given by statute
21 or arising out of contract, not exceeding \$50,000;

22 (4) to give judgment without action upon the confession of the
23 defendant for any of the cases specified in this section, except for a penalty or
24 forfeiture imposed by statute;

25 (5) for establishing the fact of death of any person in the manner
26 prescribed in AS 09.55.020 - 09.55.060;

27 (6) for the recovery of the possession of premises in the manner
28 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage
29 to the property does not exceed \$50,000;

30 (7) for the foreclosure of a lien when the amount in controversy does
31 not exceed \$50,000;

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1 (8) for the recovery of money or damages in motor vehicle tort cases
2 when the amount claimed exclusive of costs, interest, and attorney fees does not
3 exceed \$50,000;

4 (9) over civil actions for taking utility service and for damages to or
5 interference with a utility line filed under AS 42.20.030;

6 (10) over cases involving protective orders [INJUNCTIVE RELIEF]
7 for domestic violence under AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020].

8 (b) Insofar as the civil jurisdiction of the district courts and the superior court
9 is the same, the jurisdiction is concurrent. Except for a petition for a protective order
10 [INJUNCTIVE RELIEF] under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR
11 25.35.020], an action that falls within the concurrent jurisdiction of the superior court
12 and the district court may not be filed in the superior court, except as provided by
13 rules of the supreme court.

14 * Sec. 36. AS 22.15.100 is amended to read:

15 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
16 MAGISTRATE. Each district judge and magistrate has the power

17 (1) to issue writs of habeas corpus for the purpose of inquiring into the
18 cause of restraint of liberty, returnable before a judge of the superior court, and the
19 same proceedings shall be had on the writ as if it had been granted by the superior
20 court judge under the laws of the state in such cases;

21 (2) of a notary public;

22 (3) to issue marriage licenses and to solemnize marriages;

23 (4) to issue warrants of arrest, summons, and search warrants according
24 to manner and procedure prescribed by law and the supreme court;

25 (5) to act as an examining judge or magistrate in preliminary
26 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
27 release of defendants under bail;

28 (6) to act as a referee in matters and actions referred to the judge or
29 magistrate by the superior court, with all powers conferred upon referees by laws;

30 (7) of the superior court in all respects including but not limited to
31 contempts, attendance of witnesses, and bench warrants;

1 (8) to order the temporary detention of a minor, or take other action
2 authorized by law or rules of procedure, in cases arising under AS 47.10, when the
3 minor is in a condition or surrounding dangerous or injurious to the welfare of the
4 minor or others that requires immediate action; the action may be continued in effect
5 until reviewed by the superior court in accordance with rules of procedure governing
6 these cases;

7 (9) to issue a protective order [TEMPORARY ORDER FOR
8 INJUNCTIVE RELIEF] in cases involving domestic violence as provided in
9 AS 18.66.100 - 18.66.180 [AS 25.35.010 AND 25.35.020];

10 (10) to review an administrative revocation of a person's driver's
11 license or nonresident privilege to drive, and an administrative refusal to issue an
12 original license, when designated as a hearing officer by the commissioner of public
13 safety and with the consent of the administrative director of the state court system.

14 * Sec. 37. AS 22.20.110 is amended to read:

15 Sec. 22.20.110. DUTY OF THE COMMISSIONER IN THE COURT OF
16 APPEALS, THE SUPERIOR COURT, AND DISTRICT COURTS. When required
17 by the supreme court, and except as otherwise provided in AS 18.66.160
18 [AS 25.35.040], the commissioner shall serve and execute all process issued by the
19 court of appeals, the superior court, and the district courts; attend to and wait upon
20 grand and petit juries; maintain order; attend the sessions of the courts; and exercise
21 the power and perform the duties concerning all matters within the jurisdiction of the
22 courts as may be assigned. The commissioner is the executive officer of the court of
23 appeals, the superior court, and district courts.

24 * Sec. 38. AS 25.20.060 is amended by adding a new subsection to read:

25 (d) If the court finds that a parent or child is a victim of domestic violence,
26 the court may order that the address and telephone number of the parent or child be
27 kept confidential in the proceedings.

28 * Sec. 39. AS 25.20 is amended by adding a new section to read:

29 Sec. 25.20.061. VISITATION IN PROCEEDINGS INVOLVING DOMESTIC
30 VIOLENCE. If visitation is awarded to a parent who has committed a crime involving
31 domestic violence, against the other parent or a child of the two parents, within the

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1 five years preceding the award of visitation, the court may set conditions for the
2 visitation, including

3 (1) the transfer of the child for visitation must occur in a protected
4 setting;

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

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

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

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

16 (6) the prohibition of overnight visitation;

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

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

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

22 (a) Except as provided in (f) and (g) of this section, at [AT] any time within
23 30 days after a petition for child custody is filed under AS 25.20.060 the court may
24 order the parties to submit to mediation. Each party has [SHALL HAVE] the right to
25 challenge peremptorily one mediator appointed.

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

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

1 section are met. If the court proposes or suggests mediation under this subsection,
2 (1) mediation may not occur unless the victim of the alleged domestic
3 violence agrees to the mediation; and

4 (2) the court shall advise the parties that each party has the right to not
5 agree to mediation and that the decision of each party will not bias other decisions of
6 the court.

7 (g) A mediator who receives a referral or order from a court to conduct
8 mediation under (a) of this section shall evaluate whether domestic violence has
9 occurred between the parties. A mediator may not engage in mediation when either
10 party has committed a crime involving domestic violence unless

11 (1) mediation is requested by the victim of the alleged domestic
12 violence, or proposed by the court and agreed to by the victim;

13 (2) mediation is provided by a mediator who is trained in domestic
14 violence in a manner that protects the safety of the victim and any household member,
15 taking into account the results of an assessment of the potential danger posed by the
16 perpetrator and the risk of harm to the victim; and

17 (3) the victim is permitted to have in attendance a person of the
18 victim's choice, including an attorney.

19 * Sec. 42. AS 25.20.110 is amended by adding a new subsection to read:

20 (c) In a proceeding involving the modification of an award for custody of a
21 child or visitation with a child, a finding that a crime involving domestic violence has
22 occurred since the last custody or visitation determination is a finding of change of
23 circumstances under (a) of this section.

24 * Sec. 43. AS 25.24.060(a) is amended to read:

25 (a) Except as provided in (f) and (g) of this section, at [AT] any time within
26 30 days after a complaint or cross-complaint in a divorce action is filed, a party to the
27 action may file a motion with the court requesting mediation, for the purpose of
28 achieving a mutually agreeable settlement in termination of the marriage. When a
29 party moves for settlement mediation, the other party shall answer the motion on the
30 record, and the judge may order mediation. When no request for mediation is made,
31 the court may at any time order the parties to submit to mediation if it determines that

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1 mediation may result in a more satisfactory settlement between the parties.

2 * Sec. 44. AS 25.24.060 is amended by adding new subsections to read:

3 (f) The court may not order or refer parties to mediation in a divorce
4 proceeding if a protective order issued or filed under AS 18.66.100 - 18.66.180 is in
5 effect. The court may not order or refer parties to mediation if a party objects on the
6 grounds that domestic violence has occurred between the parties unless the court finds
7 that the conditions of (g)(1) - (3) of this section are met. If the court proposes or
8 suggests mediation under this subsection,

9 (1) mediation may not occur unless the victim of the alleged domestic
10 violence agrees to the mediation; and

11 (2) the court shall advise the parties that each party has the right to not
12 agree to mediation and that the decision of each party will not bias other decisions of
13 the court.

14 (g) A mediator who receives a referral or order from a court to conduct
15 mediation under (a) of this section shall evaluate whether domestic violence has
16 occurred between the parties. A mediator may not engage in mediation when either
17 party has committed a crime involving domestic violence unless

18 (1) mediation is requested by the victim of the alleged domestic
19 violence, or proposed by the court and agreed to by the victim;

20 (2) mediation is provided by a mediator who is trained in domestic
21 violence in a manner that protects the safety of the victim and any household member,
22 taking into account the results of an assessment of the potential danger posed by the
23 perpetrator and the risk of harm to the victim; and

24 (3) the victim is permitted to have in attendance a person of the
25 victim's choice, including an attorney.

26 * Sec. 45. AS 25.24.140(b) is amended to read:

27 (b) During the pendency of the action, upon application, a spouse is entitled
28 to necessary protective orders, including orders

29 (1) providing for the freedom of each spouse from the control of the
30 other spouse;

31 (2) for protection under AS 18.66.100 - 18.66.180 [RESTRAINING

1 EACH SPOUSE FROM SUBJECTING THE OTHER SPOUSE OR ANOTHER
2 PERSON LIVING IN THE HOUSEHOLD TO DOMESTIC VIOLENCE,
3 AS DEFINED IN AS 25.35.200];

4 (3) directing one spouse to vacate the marital residence or the home of
5 the other spouse;

6 (4) restraining a spouse from communicating directly or indirectly with
7 the other spouse;

8 (5) restraining a spouse from entering a propelled vehicle in the
9 possession of or occupied by the other spouse; and

10 (6) prohibiting a spouse from disposing of the property of either spouse
11 or marital property without the permission of the other spouse or a court order.

12 * Sec. 46. AS 25.24.140(c) is amended to read:

13 (c) Except as provided in (d) and (e) of this section, after [AFTER] a
14 hearing, if both parties agree, the court may also order that the parties engage in
15 personal or family counseling or mediation. In the order, the court shall provide for
16 the payment of the costs of the counseling or mediation.

17 * Sec. 47. AS 25.24.140 is amended by adding new subsections to read:

18 (d) The court may not order or refer parties to mediation or family counseling
19 under (c) of this section if a protective order issued or filed under AS 18.66.100 -
20 18.66.180 is in effect. The court may not order or refer parties to mediation or family
21 counseling if a party objects on the grounds that domestic violence has occurred
22 between the parties unless the court finds that the conditions of (e)(1) - (3) of this
23 section are met. If the court proposes or suggests mediation under this subsection,

24 (1) mediation may not occur unless the victim of the alleged domestic
25 violence agrees to the mediation; and

26 (2) the court shall advise the parties that each party has the right to not
27 agree to mediation and that the decision of each party will not bias other decisions by
28 the court.

29 (e) A mediator or family counselor who receives a referral or order from a
30 court to conduct mediation under (c) of this section shall evaluate whether domestic
31 violence has occurred between the parties. A mediator or family counselor may not

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1 engage in mediation when either party has committed a crime involving domestic
2 violence unless

3 (1) mediation or family counseling is requested by the victim of the
4 alleged domestic violence, or proposed by the court and agreed to by the victim;

5 (2) mediation or family counseling is provided by a mediator or family
6 counselor who is trained in domestic violence in a manner that protects the safety of
7 the victim and any household member, taking into account the results of an assessment
8 of the potential danger posed by the perpetrator and the risk of harm to the victim; and

9 (3) the victim is permitted to have in attendance a person of the
10 victim's choice, including an attorney.

11 * Sec. 48. AS 25.24.210(e) is amended to read:

12 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition
13 must state in detail the terms of the agreement between the spouses concerning the
14 custody of children, child support, visitation, spousal maintenance and tax
15 consequences, if any, and fair and just division of property, including retirement
16 benefits. Agreements on spousal maintenance and property division must fairly
17 allocate the economic effect of dissolution and take into consideration the factors listed
18 in AS 25.24.160(a)(2) and (4). In addition, the petition must state

19 (1) the respective occupations of the petitioners;

20 (2) the income, assets, and liabilities of the respective petitioners at the
21 time of filing the petition;

22 (3) the date and place of the marriage;

23 (4) the name, date of birth, and current marital, educational, and
24 custodial status of each child born of the marriage or adopted by the petitioners who
25 is under the age of 19;

26 (5) whether the wife is pregnant;

27 (6) whether either petitioner requires medical care or treatment;

28 (7) whether any of the following [A DOMESTIC VIOLENCE
29 COMPLAINT] has been issued or filed during the marriage by or regarding either
30 spouse as defendant, participant, or respondent:

31 (A) a criminal charge of a crime involving domestic

1 violence;

2 (B) a protective order under AS 18.66.100 - 18.66.180;

3 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

4 or

5 (D) a protective order issued in another jurisdiction and
6 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE
7 HOUSEHOLD];

8 (8) whether either petitioner has received the advice of legal counsel
9 regarding a divorce or dissolution;

10 (9) other facts and circumstances that the petitioners believe should be
11 considered;

12 (10) that the petition constitutes the entire agreement between the
13 petitioners; and

14 (11) any other relief sought by the petitioners.

15 * Sec. 49. AS 25.24.220(h) is amended to read:

16 (h) In its examination of a petitioner under (d) of this section, the court shall
17 use a heightened level of scrutiny of agreements if

18 (1) one party is represented by counsel and the other is not;

19 (2) there is evidence that a party committed a crime involving [A]
20 domestic violence during the marriage or if any of the following [COMPLAINT]
21 has been issued or filed during the marriage by or regarding either spouse as
22 defendant, participant, or respondent;

23 (A) a criminal charge of a crime involving domestic
24 violence;

25 (B) a protective order under AS 18.66.100 - 18.66.180;

26 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

27 or

28 (D) a protective order issued in another jurisdiction and
29 filed with the court in this state under AS 18.66.140 [A MEMBER OF THE
30 FAMILY OR THERE IS EVIDENCE OF DOMESTIC VIOLENCE DURING
31 THE MARRIAGE];

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- 1 (3) there is a minor child of the marriage; or
- 2 (4) there is a patently inequitable division of the marital estate.

3 * Sec. 50. AS 25 is amended by adding a new chapter to read:

4 CHAPTER 90. GENERAL PROVISIONS.

5 Sec. 25.90.010. DEFINITIONS. In this title, "domestic violence" and "crime
6 involving domestic violence" have the meanings given in AS 18.66.990.

7 * Sec. 51. AS 33.16.120 is amended by adding a new subsection to read:

8 (g) A victim of a crime involving domestic violence shall be informed by the
9 board at least 30 days in advance of a scheduled hearing to review or consider
10 discretionary parole for a prisoner. The board shall inform the victim of any decision
11 to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c).
12 If the prisoner is to be released, the victim shall be notified of the expected date of the
13 release, the geographic area in which the prisoner will reside, and any other
14 information concerning conditions of parole that may affect the victim. The victim
15 shall also be informed of any changes in the conditions of parole that may affect the
16 victim. The board shall send the notice required to the last known address of the
17 victim. A person may not bring a civil action for damages for a failure to comply
18 with the provisions of this subsection.

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

20 (f) In addition to other conditions of parole imposed under this section, the
21 board may impose as a condition of special medical, discretionary, or mandatory parole
22 for a prisoner serving a term for a crime involving domestic violence (1) any of the
23 terms of protective orders under AS 18.66.100(c)(1) - (7); (2) a requirement that, at
24 the prisoner's expense, the prisoner participate in and complete, to the satisfaction of
25 the board, a program for the rehabilitation of perpetrators of domestic violence that
26 meets the standards set by the department under AS 44.28.020(b); and (3) any other
27 condition necessary to rehabilitate the prisoner. The board shall establish procedures
28 for the exchange of information concerning the parolee with the victim and for
29 responding to reports of nonattendance or noncompliance by the parolee with
30 conditions imposed under this subsection.

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

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

2 (1) engages in conduct in violation of AS 33.16.150(a), [OR] (b), or
3 (f); or

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

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

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

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

11 (2) the seriousness of the alleged violation;

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

13 (4) whether the parolee is likely to further violate conditions of parole;

14 and

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

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

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

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

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

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

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

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

31 (b) The commissioner is required to give notice of a change in the status of an

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1 offender under this section only if the victim has requested notice of the change,
2 except that the commissioner is required to give notice, mailed to the last known
3 address of the victim, in every case of a crime involving domestic violence.

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

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

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

9 (f) Except as provided in (g) of this section, if [IF] the commissioner
10 considers a prisoner convicted of a crime against a person or arson in the first degree
11 for a prerelease furlough and the victim has requested notice under AS 33.30.013, the
12 commissioner shall send notice of intent to consider the prisoner for a prerelease
13 furlough to the victim. The victim may comment in writing on the commissioner's
14 intent to release the prisoner on a prerelease furlough status. The commissioner shall
15 consider the victim's comments before making a final decision to release a prisoner
16 on a prerelease furlough status. The commissioner shall make a reasonable effort to
17 notify the victim of an intent to release the prisoner on a prerelease furlough. The
18 notice must contain the expected date of the prisoner's release, the geographic area in
19 which the prisoner will reside, and other pertinent information concerning the
20 prisoner's release that may affect the victim.

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

22 (g) If the commissioner considers a prisoner convicted of a crime involving
23 domestic violence for a prerelease furlough, the commissioner shall send notice of
24 intent to consider the prisoner for prerelease furlough to the last known address of the
25 victim. The victim may comment in writing on the commissioner's intention to release
26 the prisoner on a prerelease furlough. The commissioner shall consider the victim's
27 comments, if any, before making a final decision to release the prisoner on a prerelease
28 furlough. The commissioner shall make a reasonable effort to notify the victim of any
29 decision to release the prisoner on the prerelease furlough. The notice must include
30 the expected date of the furlough and any other information concerning the furlough
31 that may affect the victim. A person may not bring a civil action for damages for a

1 failure to comply with the provisions of this subsection.

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

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

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

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

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

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

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

13 (4) court ordered fines;

14 (5) writs of execution under AS 09.35 of a judgment that is entered

15 (A) against a minor in a civil action to recover damages;

16 (B) under AS 34.50.020 against the parent, parents, or legal
17 guardian of an unemancipated minor;

18 (6) a debt owed by an eligible individual to an agency of the state,
19 unless the debt is contested and an appeal is pending, or the time limit for filing an
20 appeal has not expired;

21 (7) a debt owed to a person for a program for the rehabilitation of
22 perpetrators of domestic violence required under AS 12.55.101,
23 AS 18.66.100(c)(15), AS 25.20.061(3), or AS 33.16.150(f)(2).

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

25 (5) provide legal representation and guardian ad litem services under
26 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
27 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
28 petitions for the termination of parental rights on grounds set out in
29 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
30 under AS 09.55.590; in children's proceedings under AS 47.10.050(a); in cases
31 involving appointments under AS 18.66.100(a) in petitions for protective orders

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1 on behalf of a minor; and in cases involving indigent persons who are entitled to
2 representation under AS 18.85.100 and who cannot be represented by the public
3 defender agency because of a conflict of interests;

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

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

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

11 (a) The following persons who, in the performance of their occupational duties,
12 have reasonable cause to suspect that a child has suffered harm as a result of child
13 abuse or neglect shall immediately report the harm to the nearest office of the
14 department:

- 15 (1) practitioners of the healing arts;
- 16 (2) school teachers and school administrative staff members of public
17 and private schools;
- 18 (3) social workers;
- 19 (4) peace officers, and officers of the Department of Corrections;
- 20 (5) administrative officers of institutions;
- 21 (6) child care providers;
- 22 (7) paid employees of domestic violence and sexual assault programs,
23 and crisis intervention and prevention programs as defined in AS 18.66.990
24 [AS 18.66.900];
- 25 (8) paid employees of an organization that provides counseling or
26 treatment to individuals seeking to control their use of drugs or alcohol.

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

28 Sec. 47.17.035. DUTIES OF DEPARTMENT IN DOMESTIC VIOLENCE
29 CASES. (a) In consultation with the Council on Domestic Violence and Sexual
30 Assault, the department shall develop written procedures for screening reports of harm
31 for abuse and neglect of a child to assess whether there is domestic violence occurring

1 within the family. The procedures must include the following factors:

2 (1) inquiry concerning the criminal records of the parents or of the
3 alleged abusive or neglectful person or the alleged perpetrator if not the parent of the
4 child; and

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

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

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

12 (2) a person is the victim of domestic violence, the department shall
13 provide the victim with a written notice of the rights of and services available to
14 victims of domestic violence that is substantially similar to the notice provided to
15 victims of domestic violence under AS 18.65.520.

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

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

21 (e) In this section,

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

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

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

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

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

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

30 (2) where the respondent resides; or

31 (3) where the domestic violence occurred.

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

2 (a) Application. At any time after a complaint is filed, a party may file a
3 motion with the court requesting mediation for the purpose of achieving a mutually
4 agreeable settlement. The motion must address how the mediation should be
5 conducted as specified in paragraph (b), including the names of any acceptable
6 mediators. If domestic violence has occurred between the parties and mediation
7 is requested in a matter covered by AS 25, mediation may only be ordered when
8 permitted under AS 25.20.080, AS 25.24.060, or 25.24.140. In matters not covered
9 by AS 25, the [THE] court may order mediation in response to such a motion, or on
10 its own motion, whenever it determines that mediation may result in an equitable
11 settlement. In making this determination, the court shall [MAY] consider whether
12 there is a history of domestic violence between the parties which could be expected
13 to affect the fairness of the mediation process or the physical safety of the domestic
14 violence victim. Mediation may not be ordered between the parties to, or in, a case
15 filed under AS 18.66.100 - 18.66.180 [AS 25.35.010 OR .020 AND CONDUCT
16 WHICH CONSTITUTES DOMESTIC VIOLENCE UNDER THESE STATUTES
17 MAY NOT BE THE SUBJECT OF MEDIATION UNDER THIS RULE].

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

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

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

22 (B) In a proceeding to commit or otherwise place his spouse,
23 the property of his spouse, or both the spouse and the property of the spouse
24 under the control of another because of the alleged mental or physical condition
25 of the spouse; or

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

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

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

- 1 (ii) Bigamy, incest, adultery, pimping, or prostitution.
- 2 (iii) A crime related to abandonment of a child or
- 3 nonsupport of a spouse or child.
- 4 (iv) A crime prior to the marriage.
- 5 (v) A crime involving domestic violence as defined in
- 6 AS 18.66.990.

- 7 (E) In a proceeding involving custody of a child.
- 8 (F) Evidence derived from or related to a business relationship
- 9 involving the spouses.

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

11 * Sec. 72. AS 12.25.030(d); AS 12.61.900(1); AS 18.65.520(c); AS 18.66.900;

12 AS 25.35.010, 25.35.020, 25.35.030, 25.35.040, 25.35.050, and 25.35.200 are repealed.

13 * Sec. 73. REVISOR'S CHANGES. The revisor of statutes is requested to remove

14 AS 25.35.100 - 25.35.150 from AS 25 and place these provisions in AS 18, renumbered as

15 AS 18.66.200 - 18.66.250, and as a whole described as "Article 3. Confidential

16 Communications." The revisor is also requested to revise all statutory cross-references to

17 these statutes.

18 * Sec. 74. TRANSITION: EXISTING DOMESTIC VIOLENCE PROTECTIVE ORDERS.

19 A domestic violence order issued under former AS 25.35.010 or 25.35.020 and in effect on

20 the effective date of sec. 72 of this Act remains in effect until it expires under the terms of

21 the order and former AS 25.35.010 or 25.35.020 or is dissolved by the court, whichever occurs

22 earlier.

23 * Sec. 75. TRANSITION: REGULATIONS. Notwithstanding secs. 81, 83, and 84 of this

24 Act, the state agencies affected by this Act may proceed to adopt regulations necessary to

25 implement changes affecting the state agency that are enacted by this Act. The regulations

26 take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date

27 of the changes in law in this Act.

28 * Sec. 76. AS 18.66.150(d) and 18.66.160(c), added by sec. 33 of this Act, have the effect

29 of amending Rules 9(b)(11), 9(c)(3), and 9(e)(6), Alaska Rules of Administration, by

30 eliminating filing fees and service of process fees in domestic violence actions for protective

31 orders.

Chapter 64

- 1 * **Sec. 77.** AS 18.66.160, added by sec. 33 of this Act, has the effect of amending Rule 4,
2 Alaska Rules of Civil Procedure, relating to service of process in domestic violence actions
3 for protective orders.
- 4 * **Sec. 78.** AS 18.66.110 - 18.66.130, added by sec. 33 of this Act, have the effect of
5 amending Rule 65(b) - (d), Alaska Rules of Civil Procedure, relating to temporary restraining
6 orders, the method of obtaining those orders, and the timing of those orders.
- 7 * **Sec. 79.** AS 12.61.127, added by sec. 29 of this Act, has the effect of amending Rule
8 613, Alaska Rules of Evidence, relating to impeachment of witnesses.
- 9 * **Sec. 80.** Sections 68 - 70 and 76 - 79 of this Act take effect only if secs. 68 - 70 and 76
10 - 79 of this Act receive the two-thirds majority vote of each house required by art. IV, sec. 15,
11 Constitution of the State of Alaska.
- 12 * **Sec. 81.** If secs. 68 - 70 and 76 - 79 of this Act take effect under sec. 80 of this Act,
13 they take effect July 1, 1996.
- 14 * **Sec. 82.** Section 75 of this Act takes effect immediately under AS 01.10.070(c).
- 15 * **Sec. 83.** Except as provided in secs. 81, 82, and 84 of this Act, this Act takes effect
16 July 1, 1996.
- 17 * **Sec. 84.** Section 71 of this Act takes effect 90 days after the effective date of sec. 72 of
18 this Act.