

HOUSE BILL NO. 147

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES VAZQUEZ, Gruenberg, LeDoux, Lynn, Drummond, Edgmon, Guttenberg, Josephson, Ortiz, Tarr, Tuck

Introduced: 3/13/15

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the investigation of cruelty to animals complaints; relating to the**
2 **seizure of animals; relating to the destruction of animals; relating to a bond or security**
3 **posted for the costs of care for an animal; relating to the inclusion of an animal in a**
4 **protective order and the crimes and arrests for violating that protective order; and**
5 **relating to the ownership of an animal upon divorce."**

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

7 *** Section 1.** AS 03.55.110(c) is amended to read:

8 (c) Before a peace officer may take an animal and place it into protective
9 custody, the peace officer shall request an immediate inspection and decision by a
10 veterinarian licensed under AS 08.98 that placement into protective custody is in the
11 immediate best interest of the animal. If a veterinarian is not available to perform an
12 inspection, before a peace officer may take an animal, the peace officer shall
13 communicate with a veterinarian who has, after hearing a description of the condition

1 of the animal and its environment, decided it is in the immediate best interest of the
 2 animal that it be placed into protective custody. If the peace officer is not able to
 3 communicate with a veterinarian, before the officer may take an animal, the officer
 4 shall decide it is in the immediate best interest of the animal that it be placed into
 5 protective custody [. FOR PURPOSES OF THIS SECTION, "PEACE OFFICER"
 6 MEANS

- 7 (1) AN OFFICER OF THE STATE TROOPERS;
- 8 (2) A MEMBER OF THE POLICE FORCE OF A MUNICIPALITY;
- 9 (3) A VILLAGE PUBLIC SAFETY OFFICER; OR
- 10 (4) A REGIONAL PUBLIC SAFETY OFFICER].

11 * **Sec. 2.** AS 03.55.110 is amended by adding a new subsection to read:

12 (d) In this section,

- 13 (1) "cruelty" includes promoting a fighting exhibition of animals;
- 14 (2) "peace officer" means
 - 15 (A) an officer of the state troopers;
 - 16 (B) a member of the police force of a municipality;
 - 17 (C) a village public safety officer; or
 - 18 (D) a regional public safety officer.

19 * **Sec. 3.** AS 03.55.120(c) is amended to read:

20 (c) If a removed animal's owner is unknown and cannot be ascertained with
 21 reasonable effort,

- 22 **(1) the animal shall be considered a stray or abandoned; and**
- 23 **(2) the notice required in (b) of this section shall be conspicuously**
 24 **posted at the premises from which the animal was removed.**

25 * **Sec. 4.** AS 03.55.130(d) is amended to read:

26 (d) Except as provided in (a) or (b) of this section, the custodian of an animal
 27 may not adopt, provide for the adoption of, or euthanize the animal within 10 business
 28 days after the animal is taken into custody. An owner may prevent the animal's
 29 adoption or destruction by

- 30 (1) petitioning the court of the judicial district in which the animal was
 31 removed for the animal's immediate return, subject, if appropriate, to court-imposed

1 conditions; or

2 (2) posting a bond or security with the court of the judicial district in
 3 which the animal was seized **within 10 business days after the court's order to post**
 4 **a bond or security under this paragraph** in an amount determined by the court to be
 5 sufficient to provide for the animal's care for a minimum of 30 days from the date the
 6 animal was **seized** [REMOVED].

7 * **Sec. 5.** AS 03.55.130(e) is amended to read:

8 (e) [IF THE CUSTODIAN STILL HAS CUSTODY OF THE ANIMAL
 9 WHEN THE BOND OR SECURITY POSTED UNDER (d)(2) OF THIS SECTION
 10 EXPIRES AND THE COURT HAS NOT ORDERED AN ALTERNATIVE
 11 DISPOSITION, THE ANIMAL BECOMES THE CUSTODIAN'S PROPERTY.] If
 12 **an** [A COURT] order **of the court** prevents **a** [THE] custodian from assuming
 13 ownership and the custodian continues to care for the animal, the court shall **order**
 14 [REQUIRE] the owner of the animal to pay **or post a** [BY] bond or **security for the**
 15 **amount ordered under (g) of this section** [OTHERWISE] for the custodian's
 16 continuing costs of care for the animal until a final disposition of the animal is
 17 **ordered** [MADE] by the court. **Upon the expiration of a bond or security posted**
 18 **under this section, the owner shall pay or post the amount ordered by the court**
 19 **every 30 days thereafter until a final disposition of the animal is ordered by the**
 20 **court. If a bond or security posted under this subsection expires, the owner fails**
 21 **to pay or post an additional bond or security, and the court has not ordered an**
 22 **alternative disposition, the animal shall become the property of the custodian.**
 23 **The court of the judicial district in which the animal was seized may enter an**
 24 **order directing the owner of the animal to pay the custodian an amount sufficient**
 25 **to provide for the animal's care for a minimum of 30 days or to post a bond or**
 26 **security for the same amount. The court may hold a cost-of-care hearing for this**
 27 **purpose. The court shall, if possible, hold a hearing under this section not more**
 28 **than 10 business days after an animal is taken into custody. The custodian or, at**
 29 **the direction of the custodian, a peace officer or person authorized to serve**
 30 **process shall provide notice of the time and place of the hearing to the owner of**
 31 **the animal. If the owner of the animal is unknown and cannot be ascertained**

1 **with reasonable effort, the custodian or, at the direction of the custodian, a peace**
 2 **officer or person authorized to serve process shall conspicuously post the notice**
 3 **required by this subsection on the premises where the animal was seized.**

4 * **Sec. 6.** AS 11.56.740(a) is amended to read:

5 (a) A person commits the crime of violating a protective order if the person is
 6 subject to a protective order

7 (1) issued or filed under AS 18.66 and **the protective order contains**
 8 **one or more of the provisions** [CONTAINING A PROVISION] listed in
 9 AS 18.66.100(c)(1) - (7), **(17), and (18)** and **the person** knowingly commits or
 10 attempts to commit an act with reckless disregard that the act violates or would violate
 11 a provision of the protective order;

12 (2) issued under AS 18.65.850, 18.65.855, or 18.65.860 and knowingly
 13 commits or attempts to commit an act that violates or would violate a provision listed
 14 in AS 18.65.850(c)(1) - (3); or

15 (3) issued under AS 13.26.207 - 13.26.209 and knowingly commits or
 16 attempts to commit an act with reckless disregard that the act violates or would violate
 17 a provision of the protective order.

18 * **Sec. 7.** AS 12.30.027(a) is amended to read:

19 (a) Before ordering release before or after trial, or pending appeal, of a person
 20 charged with or convicted of a crime involving domestic violence, the judicial officer
 21 shall consider the safety of the victim or other household member. To protect the
 22 victim, household member, other persons, and the community and to reasonably
 23 ensure the person's appearance, the judicial officer

24 (1) shall impose conditions required under AS 12.30.011;

25 (2) may impose any of the conditions authorized under AS 12.30.011;

26 (3) may impose any of the provisions of AS 18.66.100(c)(1) - (7),
 27 [AND] (11), **(17), and (18)**;

28 (4) may order the person to participate in a monitoring program with a
 29 global positioning device or similar technological means that meets guidelines for a
 30 monitoring program adopted by the Department of Corrections in consultation with
 31 the Department of Public Safety; and

1 (5) may impose any other condition necessary to protect the victim,
 2 household member, other persons, and the community, and to ensure the appearance
 3 of the person in court, including ordering the person to refrain from the consumption
 4 of alcohol.

5 * **Sec. 8.** AS 18.65.520(a) is amended to read:

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

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

14 You may also request the officer to assist you in obtaining your
 15 essential personal belongings and locating and taking you to a safe
 16 place, including a designated meeting place or shelter, the residence of
 17 a household member or friend, or a similar place of safety. In some
 18 places in Alaska there are organizations that provide aid and shelter to
 19 victims of domestic violence. The nearest organization is located at
 20 _____.

21 If you are in need of medical treatment, you may request that
 22 the officer assist you in obtaining medical treatment.

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

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

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

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

4 (3) remove your abuser from your residence;

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

8 (5) prohibit your abuser from entering your vehicle or a
9 vehicle you occupy;

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

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

17 (8) request a peace officer to accompany you to your
18 residence to ensure your safe possession of the residence, vehicle, or
19 other items, or to ensure your safe removal of personal items from the
20 residence;

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

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

26 (11) prohibit your abuser from consuming controlled
27 substances;

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

31 (13) require your abuser to reimburse you for your

1 expenses caused by domestic violence, including medical bills, or for
2 your costs in getting a protective order;

3 (14) order your abuser to participate in an intervention
4 program for batterers; [AND]

5 (15) prohibit your abuser from removing, harming,
6 or disposing of an animal owned or possessed by you, your abuser,
7 or any other person living in your residence, or authorize you to
8 remove an animal from the possession of your abuser;

9 (16) grant you the exclusive care, custody, and
10 control of an animal owned or possessed by you, your abuser, or
11 any other person living in your residence; and

12 (17) other relief the court determines to be necessary for
13 your safety.

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

22 You may also qualify for compensation from the Violent
23 Crimes Compensation Board. The board may be contacted at
24 _____.

25 * **Sec. 9.** AS 18.65.590 is amended to read:

26 **Sec. 18.65.590. Definitions [DEFINITION].** In AS 18.65.510 - 18.65.590,

27 (1) "animal" means a vertebrate living creature not a human
28 being, but does not include fish;

29 (2) "domestic violence" has the meaning given in AS 18.66.990.

30 * **Sec. 10.** AS 18.66.100(b) is amended to read:

31 (b) When a petition for a protective order is filed, the court shall schedule a

1 hearing and provide at least 10 days' notice to the respondent of the hearing and of the
 2 respondent's right to appear and be heard, either in person or by an attorney. If the
 3 court finds by a preponderance of evidence that the respondent has committed a crime
 4 involving domestic violence against the petitioner, regardless of whether the
 5 respondent appears at the hearing, the court may order any relief available under (c) of
 6 this section. The provisions of a protective order issued under

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

8 (2) (c)(2) - (18) [(c)(2) - (16)] of this section are effective for one year
 9 unless earlier dissolved by court order.

10 * **Sec. 11.** AS 18.66.100(c) is amended to read:

11 (c) A protective order under this section may

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

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

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

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

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

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

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

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

31 (A) safely obtains possession of the petitioner's residence,

1 vehicle, or personal items; and

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

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

8 (10) give the petitioner possession and use of a vehicle and other
9 essential personal items, regardless of ownership of the items;

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

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

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

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

19 (15) order the respondent, at the respondent's expense, to participate in
20 (A) a program for the rehabilitation of perpetrators of domestic violence that meets the
21 standards set by, and that is approved by, the Department of Corrections under
22 AS 44.28.020(b), or (B) treatment for the abuse of alcohol or controlled substances, or
23 both; a protective order under this section may not require a respondent to participate
24 in a program for the rehabilitation of perpetrators of domestic violence unless the
25 program meets the standards set by, and that is approved by, the Department of
26 Corrections under AS 44.28.020(b);

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

29 **(17) prohibit the respondent from removing, harming, or**
30 **disposing of an animal owned or possessed by the petitioner, respondent, or any**
31 **other person living in the residence;**

1 **(18) grant the petitioner the exclusive care, custody, and control of**
 2 **an animal owned or possessed by the petitioner, respondent, or any other person**
 3 **living in the residence.**

4 * **Sec. 12.** AS 18.66.110(a) is amended to read:

5 (a) A person who is a victim of a crime involving domestic violence may file a
 6 petition under AS 18.66.100(a) and request an ex parte protective order. If the court
 7 finds that the petition establishes probable cause that a crime involving domestic
 8 violence has occurred, it is necessary to protect the petitioner from domestic violence,
 9 and if the petitioner has certified to the court in writing the efforts, if any, that have
 10 been made to provide notice to the respondent, the court shall ex parte and without
 11 notice to the respondent issue a protective order. An ex parte protective order may
 12 grant the protection provided by AS 18.66.100(c)(1) - (5), (8) - (12), and **(16) - (18)**
 13 [(16)]. An ex parte protective order expires 20 days after it is issued unless dissolved
 14 earlier by the court at the request of either the petitioner or the respondent and after
 15 notice and, if requested, a hearing. If a court issues an ex parte protective order, the
 16 court shall have the order delivered to the appropriate local law enforcement agency
 17 for expedited service and for entry into the central registry of protective orders under
 18 AS 18.65.540.

19 * **Sec. 13.** AS 18.66.110(b) is amended to read:

20 (b) A peace officer, on behalf of and with the consent of a victim of a crime
 21 involving domestic violence, may request an emergency protective order from a
 22 judicial officer. The request may be made orally or in writing based upon the sworn
 23 statement of a peace officer, and in person or by telephone. If the court finds probable
 24 cause to believe that the victim is in immediate danger of domestic violence based on
 25 an allegation of the recent commission of a crime involving domestic violence, the
 26 court ex parte shall issue an emergency protective order. In an emergency protective
 27 order, the court may grant the protection provided by AS 18.66.100(c)(1) - (5), (8),
 28 (10), (11), and **(16) - (18)** [(16)]. An emergency protective order expires 72 hours after
 29 it is issued unless dissolved earlier by the court at the request of the petitioner.

30 * **Sec. 14.** AS 18.66.130(a) is amended to read:

31 (a) If a respondent in a protective order issued under AS 18.66.100 -

1 18.66.180 is prohibited from communicating with the petitioner, excluded from the
 2 residence of the petitioner, [OR] ordered to stay away from the petitioner as provided
 3 in AS 18.66.100(c)(2) - (5), **or prohibited from removing, harming, or disposing of**
 4 **an animal as provided in AS 18.66.100(c)(17)**, an invitation by the petitioner to
 5 communicate, enter the residence or vehicle, or have other prohibited contact with the
 6 petitioner **or the animal** does not waive or nullify any provision in a protective order.

7 * **Sec. 15.** AS 18.66.990 is amended by adding a new paragraph to read:

8 (11) "animal" means a vertebrate living creature not a human being,
 9 but does not include fish.

10 * **Sec. 16.** AS 22.15.030(a) is amended to read:

11 (a) The district court has jurisdiction of civil cases, including foreign
 12 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170
 13 or 09.43.530 to the extent permitted by AS 09.43.010 and 09.43.300, as follows:

14 (1) for the recovery of money or damages when the amount claimed
 15 exclusive of costs, interest, and attorney fees does not exceed \$100,000 for each
 16 defendant;

17 (2) for the recovery of specific personal property, when the value of
 18 the property claimed and the damages for the detention do not exceed \$100,000;

19 (3) for the recovery of a penalty or forfeiture, whether given by statute
 20 or arising out of contract, not exceeding \$100,000;

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

24 (5) for establishing the fact of death or cause and manner of death of
 25 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

26 (6) for the recovery of the possession of premises in the manner
 27 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage to
 28 the property does not exceed \$100,000;

29 (7) for the foreclosure of a lien when the amount in controversy does
 30 not exceed \$100,000;

31 (8) for the recovery of money or damages in motor vehicle tort cases

1 when the amount claimed exclusive of costs, interest, and attorney fees does not
2 exceed \$100,000 for each defendant;

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

5 (10) over cases involving protective orders for domestic violence
6 under AS 18.66.100 - 18.66.180;

7 **(11) over cases involving cruelty to or seizure, destruction, or**
8 **adoption of animals under AS 03.55.100 - 03.55.190.**

9 * **Sec. 17.** AS 25.24.160(a) is amended to read:

10 (a) In a judgment in an action for divorce or action declaring a marriage void
11 or at any time after judgment, the court may provide

12 (1) for the payment by either or both parties of an amount of money or
13 goods, in gross or installments that may include cost-of-living adjustments, as may be
14 just and proper for the parties to contribute toward the nurture and education of their
15 children, and the court may order the parties to arrange with their employers for an
16 automatic payroll deduction each month or each pay period, if the period is other than
17 monthly, of the amount of the installment; if the employer agrees, the installment shall
18 be forwarded by the employer to the clerk of the superior court that entered the
19 judgment or to the court trustee, and the amount of the installment is exempt from
20 execution;

21 (2) for the recovery by one party from the other of an amount of
22 money for maintenance, for a limited or indefinite period of time, in gross or in
23 installments, as may be just and necessary without regard to which of the parties is in
24 fault; an award of maintenance must fairly allocate the economic effect of divorce by
25 being based on a consideration of the following factors:

26 (A) the length of the marriage and station in life of the parties
27 during the marriage;

28 (B) the age and health of the parties;

29 (C) the earning capacity of the parties, including their
30 educational backgrounds, training, employment skills, work experiences,
31 length of absence from the job market, and custodial responsibilities for

1 children during the marriage;

2 (D) the financial condition of the parties, including the
3 availability and cost of health insurance;

4 (E) the conduct of the parties, including whether there has been
5 unreasonable depletion of marital assets;

6 (F) the division of property under (4) of this subsection; and

7 (G) other factors the court determines to be relevant in each
8 individual case;

9 (3) for the delivery to either party of that party's personal property in
10 the possession or control of the other party at the time of giving the judgment;

11 (4) for the division between the parties of their property, including
12 retirement benefits, whether joint or separate, acquired only during marriage, in a just
13 manner and without regard to which of the parties is in fault; however, the court, in
14 making the division, may invade the property, including retirement benefits, of either
15 spouse acquired before marriage when the balancing of the equities between the
16 parties requires it; and to accomplish this end the judgment may require that one or
17 both of the parties assign, deliver, or convey any of their real or personal property,
18 including retirement benefits, to the other party; the division of property must fairly
19 allocate the economic effect of divorce by being based on consideration of the
20 following factors:

21 (A) the length of the marriage and station in life of the parties
22 during the marriage;

23 (B) the age and health of the parties;

24 (C) the earning capacity of the parties, including their
25 educational backgrounds, training, employment skills, work experiences,
26 length of absence from the job market, and custodial responsibilities for
27 children during the marriage;

28 (D) the financial condition of the parties, including the
29 availability and cost of health insurance;

30 (E) the conduct of the parties, including whether there has been
31 unreasonable depletion of marital assets;

1 (F) the desirability of awarding the family home, or the right to
2 live in it for a reasonable period of time, to the party who has primary physical
3 custody of children;

4 (G) the circumstances and necessities of each party;

5 (H) the time and manner of acquisition of the property in
6 question; and

7 (I) the income-producing capacity of the property and the value
8 of the property at the time of division;

9 **(5) for the ownership or joint ownership of an animal, considering**
10 **the well-being of the animal.**