

CLERK'S OFFICE
APPROVED
Date: 8-29-06

Submitted by: Chair of the Assembly at the
Request of the Mayor
Prepared by: Department of Law
For reading: August 15, 2006

ANCHORAGE, ALASKA
AO No. 2006- 116

1 AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE CHAPTER 8.30 TO
2 ADD A NEW SECTION PROHIBITING UNLAWFUL CONTACT.
3

4
5 WHEREAS, there are difficulties prosecuting unlawful contact under Anchorage Municipal
6 Code (AMC) section 8.30.110, Violation of Condition of Release, because the provision deals
7 narrowly with defendants under conditions of release, and the court is unwilling to extend this
8 violation to defendants in custody; and
9

10 WHEREAS, Alaska Statute prohibits Unlawful Contact in addition to Violation of Condition
11 of Release pursuant to AS 11.56.757; and
12

13 WHEREAS, it is appropriate to add a new section to AMC regarding unlawful conduct, both
14 to deter defendants from contact while in custody, and to clarify the prohibited conduct; now,
15 therefore,
16

17 THE ANCHORAGE ASSEMBLY ORDAINS:
18

19 **Section 1.** Anchorage Municipal Code chapter 8.30 is hereby amended to add a new
20 section to read as follows (*the remainder of the chapter is not affected and therefore not set*
21 *out*):
22

23 8.30.115 Unlawful contact.
24

25 A. A person commits the crime of unlawful contact if the person:
26

- 27 1. Has been arrested for a crime against a person or a crime involving
28 domestic violence; and
29
30 2. Has been ordered not to contact a victim or witness of the offense by
31 any court in connection with such a charge; and
32
33 3. The charge or case has not been dismissed; and
34
35 4. Either directly or indirectly, knowingly contacts or attempts to
36 contact the victim or witness in violation of the court order.
37

38 B. Violation of this section shall, upon conviction, be punished by a fine of not
39 more than \$2,000.00, or imprisonment for not more than six (6) months, or
40 both a fine and imprisonment.
41

Section 2. This ordinance shall be effective thirty (30) days following its passage and approval by the Assembly, to provide adequate time for submission to the State of Alaska, Department of Public Safety, Uniform Offense Citation Table registry, pursuant to Alaska Court Criminal Rule 3 as amended by Supreme Court Order 1614.

PASSED AND APPROVED by the Anchorage Assembly this 29th day of August, 2006.

Dan Sullivan
Chair of the Assembly

ATTEST:

Bala S. Guevara
Municipal Clerk

MUNICIPALITY OF ANCHORAGE
Summary of Economic Effects -- General Government

AO Number: 2006- 116

Title: AN ORDINANCE AMENDING CHAPTER 8.30 TO ADD A NEW SECTION
PROHIBITING UNLAWFUL CONTACT.

Sponsor: Mayor
Preparing Agency: Department of Law
Others Impacted:

CHANGES IN EXPENDITURES AND REVENUES:		(In Thousands of Dollars)				
	<u>FY06</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>	<u>FY10</u>	
Operating Expenditures						
1000 Personal Services						
2000 Non-Labor						
3900 Contributions						
4000 Debt Service						
TOTAL DIRECT COSTS:	\$ -	\$ -	\$ -	\$ -	\$ -	
Add: 6000 Charges from Others						
Less: 7000 Charges to Others						
FUNCTION COST:	\$ -	\$ -	\$ -	\$ -	\$ -	
REVENUES:						
CAPITAL:						
POSITIONS: FT/PT and Temp						

PUBLIC SECTOR ECONOMIC EFFECTS:

No public sector economic impacts; additional tool to protect victims of domestic violence.

PRIVATE SECTOR ECONOMIC EFFECTS:

No private sector economic effects; additional tool to protect victims of domestic violence from unlawful contact by defendants.

Prepared by: Department of Law

Telephone: 343-4545

MUNICIPALITY OF ANCHORAGE
ASSEMBLY MEMORANDUM

No. AM 562 -2006

Meeting Date: August 15, 2006

From: MAYOR

Subject: AN ORDINANCE AMENDING CHAPTER 8.30 TO ADD A NEW SECTION PROHIBITING UNLAWFUL CONTACT.

Oftentimes, defendants call their victims while they are in custody, especially in domestic violence cases. Girlfriends, boyfriends, spouses, parents, and other significant others then feel badly when their loved one is in custody. These types of contacts often lead to a victim recanting or minimizing the defendant's conduct. Victims entrenched in abusive relationships don't need much to feel guilty if the defendant is in custody or even charged criminally. Other times, the victim does not want contact from the defendant but believes there is nothing they can do because the defendant is already in custody. If the Municipality discovers a defendant called the victim from jail, the Municipality may add an additional count of Violation of Conditions of Release (hereinafter "VCR"), depending on the circumstances of the case and the evidence.

There have been difficulties, however, successfully prosecuting a VCR charge. In *MOA v. Robert Nicklie*, 3AN-M04-4485, a domestic violence assault case, the Municipality added a count of VCR when the defendant called the victim from jail. After trial, the court granted the defendant's motion for judgment of acquittal on the VCR charge because the defendant was in custody, and not released, when he called the victim. In addition, there may be difficulties in a jury trial if jurors are caught up in the title of the VCR ordinance and don't believe, just as one judge did, someone is guilty of VCR if they are not "released" from custody.

As a result, the Administration recommends, and the municipal prosecutor's office prepared, an Unlawful Contact ordinance tracking similar state statutes outlawing this type of conduct. The state statute includes different degrees, depending on particular legal situations. For clarity and simplicity, the proposed ordinance prohibits the conduct and carries the same penalty as the VCR ordinance. The Unlawful Contact ordinance is also more appropriate because, even when defendants are released, it more specifically defines the prohibited conduct. While a VCR conviction on someone's record provides some help to the court in determining flight risk and public safety at future bail hearings, an unlawful contact conviction provides more information to the court regarding a defendant's past conduct, increasing the ability of the court to

1 fashion bail conditions protecting the victims' safety, especially in domestic violence
2 cases.

3
4 THE ADMINISTRATION RECOMMENDS APPROVAL OF THE ORDINANCE
5 AMENDING CHAPTER 8.30 TO ADD A NEW SECTION PROHIBITING
6 UNLAWFUL CONTACT.

7
8 Prepared by: Dept. of Law
9 Approved by: Frederick H. Boness, Municipal Attorney
10 Concur: Denis C. LeBlanc, Municipal Manager
11 Respectfully submitted: Mark Begich, Mayor

Content Information

Content ID : 004227

Type: Ordinance - AO

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE

Title: CHAPTER 8.30 TO ADD A NEW SECTION PROHIBITING UNLAWFUL CONTACT.

Author: fehlenrl

Initiating Dept: Legal

AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE

Description: CHAPTER 8.30 TO ADD A NEW SECTION PROHIBITING UNLAWFUL CONTACT.

Keywords: Unlawful contact, violation of condition of release, criminal rules

Date Prepared: 8/2/06 9:03 AM

Director Name: Frederick H. Boness

Assembly Meeting Date MM/DD/YY: 8/15/06

Public Hearing Date MM/DD/YY: 8/29/06

2006 AUG - 7 PM 1:15
 CLERKS OFFICE
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Workflow History

<u>Workflow Name</u>	<u>Action Date</u>	<u>Action</u>	<u>User</u>	<u>Security Group</u>	<u>Content ID</u>
AllOrdinanceWorkflow	8/2/06 9:10 AM	Checkin	fehlenrl	Public	004227
AllOrdinanceWorkflow	8/2/06 9:14 AM	Reject	fehlenrl	Public	004227
AllOrdinanceWorkflow	8/2/06 9:14 AM	Checkin	fehlenrl	Public	004227
OMB_SubWorkflow	8/4/06 7:01 AM	Approve	mitsonjl	Public	004227
MuniManager_SubWorkflow	8/4/06 8:00 AM	Approve	leblancdc	Public	004227
MuniMgrCoord_SubWorkflow	8/4/06 11:39 AM	Approve	abbottmk	Public	004227