

CLERK'S OFFICE

APPROVED

Date:

11-8-11

**ANCHORAGE, ALASKA
AO No. 2011-110**

1 **AN ORDINANCE AMENDING ANCHORAGE MUNICIPAL CODE TITLE 8 TO**
2 **TREAT ASSAULT CONVICTIONS UNDER MUNICIPAL CODE AS PRIOR**
3 **CONVICTIONS UNDER STATE LAW.**
4

5
6 **WHEREAS**, as of 2008, Alaska Statute (AS) 11.41.220 allows for prior convictions for
7 certain assaults, including domestic violence assaults, to be counted towards
8 elevating a new charge for another assault to a felony charge;
9

10 **WHEREAS**, recently a local judge has ruled that current municipal code regarding
11 assault does not have elements similar enough to those of the state statute to allow
12 the use of municipal convictions for assault to be used as "priors" for elevating a new
13 charge to a felony; and
14

15 **WHEREAS**, allowing repeat offenders to escape felony prosecution because of this
16 difference, especially in domestic violence situations, is a significant public safety
17 concern;
18

19 **WHEREAS**, more closely mirroring AS 11.41.230, assault in the fourth degree, will
20 allow for municipal convictions to be counted as prior convictions for purposes of
21 felony prosecution of repeat offenders, now, therefore,
22

23 **THE ANCHORAGE ASSEMBLY ORDAINS:**
24

25 **Section 1.** Anchorage Municipal Code chapter 8.05 is hereby amended by adding
26 a new section to read as follows:
27

28 **8.05.100 Definitions.**
29

30 A. The following words, terms and phrases, when used in this title, shall
31 have the meanings ascribed to them in this section, except where the
32 context clearly indicates a different meaning:
33

34 *dangerous instrument* means

- 35 1. any deadly weapon or anything that, under the circumstances in
36 which it is used, attempted to be used, or threatened to be used,
37 is capable of causing death or serious physical injury; or
38 2. hands or other objects when used to impede normal breathing
39 or circulation of blood by applying pressure on the throat or neck
40 or obstructing the nose or mouth.
41

1 *physical injury* means a physical pain or an impairment of physical
2 condition.

3
4 **Section 2.** Anchorage Municipal Code section 8.10.010 is hereby amended to read
5 as follows:

6
7 **8.10.010** **Assault.**

8
9 A. It is unlawful for any person to commit an assault.

10 B. A person commits an assault if:

11 1. that person recklessly causes physical injury to another
12 person;

13 2. with criminal negligence that person causes physical injury to
14 another person by means of a dangerous instrument;

15 3. by words or other conduct that person recklessly places another
16 person in fear of imminent physical injury; or

17 [AN ASSAULT IS:

18 [1. AN INTENTIONAL OR RECKLESS USE OF FORCE OR
19 VIOLENCE UPON THE PERSON OF ANOTHER; OR

20 2. AN INTENTIONAL OR RECKLESS USE OF FORCE, WHICH
21 CREATES A REASONABLE APPREHENSION OF IMMEDIATE
22 PHYSICAL INJURY TO THE PERSON OF ANOTHER.]

23 4. [3.] that person recklessly uses [AN INTENTIONAL OR RECKLESS
24 USE OF] words or other conduct which places a family member,
25 as defined in subsection 8.10.020.C.2, in reasonable fear of
26 imminent physical injury or death to that family member or
27 another person, provided however, this subsection does not
28 prohibit lawful discipline of a minor by a parent or another
29 person with lawful physical custody or control of a minor.

30 C. A peace officer without a warrant may arrest a person when the peace
31 officer has reasonable cause for believing that the person has
32 committed a crime under subsection A of this section when the victim is
33 a family member, as defined by subsection 8.10.020.C.2.

34 D. It is unlawful when an assault is committed against the person of a
35 police officer, firefighter, paramedic or animal control officer and the
36 person committing the offense knows or reasonably should know that
37 such victim is a police officer, firefighter, paramedic or animal control
38 officer engaged in the performance of official duties.

39 E. Violation of this section shall, upon conviction, be punished by a fine of
40 not more than \$10,000.00 or imprisonment for not more than one year,
41 or both such fine and imprisonment.

(AO No. 79-24; AO No. 85-209; AO No. 93-41; AO No. 97-66, § 1, 5-6-97; AO No. 98-59(S), § 1, 5-19-98; AO No. 2003-73, § 3, 4-22-03)

Section 3. This ordinance shall be effective immediately upon passage and approval by the Assembly.

PASSED AND APPROVED by the Anchorage Assembly this 8th day of November, 2011.

Debbie Ossander
Chair of the Assembly

ATTEST:

Shirley S. Gouws
Municipal Clerk

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