



occurring once a week. They broke up in March of 2016, started dating again in July of 2017, but then broke up again, “this time for good.”<sup>4</sup>

On July 7, 2017, OCS received a protective services report (PSR) concerning an altercation between the couple at their home (July Incident). Although P. K. was in the home at the time when the alleged domestic violence occurred, no evidence is in the record to establish whether he witnessed or overheard the altercation.

Based on D. P.’s account of the events, Anchorage Police Department (APD) charged B. K. with Domestic Violence (DV) Assault, Criminal Mischief 5 and family violence and obtained a warrant for his arrest.<sup>5</sup> The charges were not pursued, allegedly because there was not enough evidence.<sup>6</sup> This PSR, which alleged concerns of neglect and exposure of P. K. to domestic violence, was closed without a finding.<sup>7</sup>

*B. PSR #1218917: The November Incident That Led to the Substantiation*

On November 7, 2017, multiple people called APD on 911 about a physical altercation going on in a driveway. This altercation (the November Incident) involved D. P. and B. K., who was by now her ex-boyfriend.<sup>8</sup> P. K. was in the back seat in D. P.’s truck at the time this altercation happened.<sup>9</sup> The altercation began with an argument that escalated to a physical tussle, with conflicting testimony as to who initiated the physical violence.

There were six eyewitnesses to the final part of the incident.<sup>10</sup> After saying he would arrest her, B. K. picked D. P. up and then body slammed her on the ground. He had one of her arms behind her back while he strangled her with his other arm.<sup>11</sup> Two on-the-scene witnesses told APD that B. K. had picked D. P. up, slammed her to the ground with his arm around her

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<sup>4</sup> AR, pp. 20-21.

<sup>5</sup> AR, pp. 30-31.

<sup>6</sup> See AR, p. 12. Although the police report lists 3AN-17-0000 as the docket number related to the arrest warrant arising out of this incident; there is no such docket number listed under B. K.’s name in Courtview or under the docket number, which corroborates D. P.’s statement that the charges were dropped. See [weblink redacted].

<sup>7</sup> See AR, pp. 6-7; Testimony of Ms. Stallard.

<sup>8</sup> AR, pp. 11-12, see also B. K. Exh. 1, p. 2.

<sup>9</sup> See AR, pp. 19-20, 49 & 53; see also Testimony of B. K.

<sup>10</sup> In addition to B. K., Ms. E., and D. P., APD interviewed three additional witnesses who saw the final part of this altercation: U. H., who is D. P.’s mother, and two witnesses whose names have been redacted in the police report which is part of the Agency Record. See AR, pp. 55 & 58. Those two unidentified witnesses were later identified by Ms. Stallard at the hearing as Z., D. P.’s younger sister, and S. G., a neighbor. See Testimony of Ms. Stallard.

<sup>11</sup> B. K. Exh. 1, p. 2; AR, pp. 11-13. D. P. and an unidentified eyewitness, whom Ms. Stallard testified at the hearing said was D. P.’s younger sister (Z.), told APD that B. K. had picked D. P. up over his head and then threw her to the ground. See AR, p. 55

neck, and then held her down with his knee on her back, while using one arm to hold her arms behind her back and his other arm around her throat.<sup>12</sup> B. K. then kned D. P. in the back one or two times while she was on the ground with her hands behind her back and shoved her face into the snow.<sup>13</sup> D. P., corroborated by another witness, reported to APD that she could not breathe for about 5 seconds.<sup>14</sup> Multiple people, including B. K.'s girlfriend, were telling him "no" and to stop.<sup>15</sup>

There is an audio recording of the incident, which was played at the hearing. After a brief civil exchange, the bulk of the recording involves raised voices and shouting by D. P. and B. K. D. P. is repeatedly yelling for B. K. to "get the fuck out of my truck" and to "get away from my truck" while B. K. is loudly telling D. P. to get "get your fucking hands off of me" and "take your hands off of me now." B. K. also says in a loud voice: "now you are assaulting me" and "call the police now." He then is heard shouting "get on the ground and I'll put you in fucking cuffs." What follows is a lot of screaming and two women are heard pleading "B. K., B. K." and one can be heard saying "come on B. K." The audio recording cuts off with B. K. saying, "you assaulted me."

Throughout this physical altercation, B. K. was wearing a gun on his hip.<sup>16</sup> After B. K. got off D. P., she ran to her car.<sup>17</sup> B. K. told D. P. that he was calling APD to report being assaulted by her.<sup>18</sup>

#### 1. D. P.'s Injuries and B. K.'s Arrest

D. P., visibly upset by the altercation, was crying when APD arrived. She told the officer interviewing her that B. K. would have killed her if it had not been for all of those witnesses

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<sup>12</sup> B. K. Exh. 1, p. 2.

<sup>13</sup> AR, pp. 52 (D. P. stating that B. K. kned her in the back), 55 (U. H. reporting that she saw B. K. knee D. P. "in the back at least twice"), 58 (unidentified eyewitness, later identified by Ms. Stallard as a neighbor, reporting that B. K. held D. P. down with a knee in her back) & 59 (B. K. admitting he placed his knee on the small of her back and held on the ground with her hands behind her back).

<sup>14</sup> B. K. Exh. 1, p. 2; AR, p. 12.

<sup>15</sup> AR, p. 11.

<sup>16</sup> AR, pp. 52 & 59. At the hearing, B. K. testified that he carries a weapon as part of his job and that he was on his way home from work when he went over to U. H.'s house to pick up P. K. on November 7, 2017. See Testimony of B. K.

<sup>17</sup> AR, pp. 11 & 51.

<sup>18</sup> AR, p. 51.

telling him to stop.<sup>19</sup> D. P. subsequently filed for a Protective Order on November 7, 2017, which was granted and later extended.<sup>20</sup>

D. P. suffered visible injuries from the altercation. Immediately after the incident, APD noted that D. P. had redness like someone would get from a “wrist burn” on her right wrist area and had slight marks on her neck in the center of her throat area as well as some slight redness near her collar bone on the left side.<sup>21</sup> Her middle finger was slightly swollen and discolored.<sup>22</sup> Her right forearm had some reddening of the skin where Ms. E. had said B. K. had grabbed D. P.’s arm.<sup>23</sup> Two days after the incident, APD visited D. P. again and noted that she had dark bruising on the back of her left hand that extended along her middle finger and had bruising on the back of both forearms and the underside of her right forearm. D. P. also had bruising on her left leg above the knee and on the back of her left leg at the base of her buttocks. The APD report described these bruises as ranging in size from “roughly the size of a quarter or smaller,” to the size of a “disposable lighter” and a “silver dollar” and took photographs of them.<sup>24</sup>

B. K. was charged with “assault D.V.” in violation of AMC 8.10.010(B)(1), which is a Class A misdemeanor, and “family violence – assault in the presence of a child” in violation of AMC 8.10.050(B), which is also a Class A misdemeanor.<sup>25</sup> Subsequently, B. K. pled guilty/no contest to a reduced charge: the offense of harassment, in violation of Anchorage Municipal Code 8.10.110(A)(3).<sup>26</sup>

## 2. OCS’ Investigation of PSR Report #1218917

OCS received PSR #1218917 describing the November Incident on November 8, 2017. The PSR was assigned to OCS caseworker Sheree L. Stallard for investigation.<sup>27</sup> Ms. Stallard found that the “allegations against B. K. [sic] are substantiated. B. K. [sic] has exposed his child

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<sup>19</sup> AR, pp. 12-13.

<sup>20</sup> AR, pp. 20 & 36-44 & 53.

<sup>21</sup> AR, p. 13.

<sup>22</sup> AR, p. 53. One of the officers from APD at the scene initially described D. P.’s finger as being red and slightly swollen but noted that it was “dark purple at the middle joint” by the time he left the scene. See AR, p. 53. D. P. said it felt like her finger was broken. See AR, pp. 13 & 49; see also B. K. Exh. 1, p. 2.

<sup>23</sup> AR, p. 49

<sup>24</sup> AR, pp. 14-18 & 47.

<sup>25</sup> B. K. Exh. 1; [weblink redacted].

<sup>26</sup> See B. K. Exh. 4; see also [weblink redacted]. To conform the initial Information to the Deferred Sentencing Agreement entered into on November 25, 2019, the Information was amended: “Assault D.V.” charge was amended to the “harassment charge, which is a Class B misdemeanor, and the “family violence charge was dismissed. Compare B. K. Exh. 1 with B. K. Exh. 4.

<sup>27</sup> AR, pp. 45-46; Testimony of Ms. Stallard; see also AR, p. 8. Ms. Stallard’s name appears in OCS case notes variously as “Stallard” and “Allard.” See, e.g., AR, p. 19.

to repeated behaviors that are domestic violence crimes.”<sup>28</sup> She reasoned that exposure to domestic violence includes exposure to verbal altercations. She testified that P. K. would have heard the fracas, which took place near the door of his mother’s truck when he was inside the truck. She pointed out that B. K. had used excessive force by picking D. P. up and slamming her to the ground. Ms. Stallard also concluded that B. K.’s behavior placed P. K. “at substantial risk of mental injury as his behaviors carry a reasonable potential for impairment” of P. K.’s physical, psychological, cognitive and social development.<sup>29</sup>

On July 5, 2018, OCS sent a letter to B. K., notifying him that OCS had made a substantiated finding that P. K. was at substantial risk of mental injury based on the conduct described in PSR # 1218917.<sup>30</sup> B. K. was unaware of the finding until February 15, 2020, since he was not at the address where the finding had been mailed. He appealed the substantiated finding on February 24, 2020 and OCS accepted his appeal despite its untimeliness.<sup>31</sup>

### 3. Hearing Testimony of B. K.

At the hearing, B. K. testified about the events underlying July Incident and the November Incident. He also provided some background about himself and information about his personal life.

In high school, B. K. was an accomplished wrestler who went to the State championships. He has been body builder for three years and has competed in “Strong Man” competitions, where the goal is to pick up the heaviest thing you can manage. He has picked up 270 pounds to the height of his shoulder three years ago and set a new record. He testified that he would have no problem picking up 130 pounds, which is what he estimates D. P. weighs.<sup>32</sup> He described his maneuver of getting D. P. down on the ground during the November Incident as a standard “double leg take down” in which he picked her up to get her legs secured.

B. K. has an assault conviction arising out of a fight with another male that occurred in 2015. In the words of B. K., the other man “went to the hospital and I went to jail.” B. K. explained that the other male was unconscious because he hit him and the police “had to call the paramedics.” In 2017, B. K.’s job involved monitoring the whereabouts of people who had

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<sup>28</sup> AR, p. 8.

<sup>29</sup> AR, p. 8.

<sup>30</sup> AR, pp. 1-3 & 9.

<sup>31</sup> AR, p. 27. Appeals of a substantiated finding must normally be submitted to OCS within 30 days from the time the substantiation letter was sent out. *See* AR, p. 3.

<sup>32</sup> Testimony of B. K. He described D. P. as being slender and between 5’2” and 5’3” in height. *See id.*

posted bail on matters ranging from murder to DUI. He noted that he often had to apprehend people violating the conditions for their bail and stated that he carried a weapon as part of his job.<sup>33</sup>

B. K. testified that he was not trying to remove P. K. from his car seat at the time of the November Incident. However, he acknowledged that D. P. may have thought that he was trying to do that.

B. K. was not a credible witness regarding the November Incident. Specifically, he testified about the following regarding the November Incident:

- His girlfriend had made the audio recording because “she was scared of how crazy D. [P.] was;”<sup>34</sup>
- He picked D. P. up off the ground “a little bit” and denied body slamming her;<sup>35</sup>
- D. P. came over to the passenger side of B. K. vehicle and asked F. who she was and called F. a “whore;”<sup>36</sup>
- D. P. slapped him in the face and he repeatedly told her to “stop hitting” him;<sup>37</sup>
- The force he used with D. P. was proportional to the force she had used with him;<sup>38</sup>
- He did not put his arm around her neck;<sup>39</sup>
- D. P. initially was on her back and tried to kick him in the face, so he rolled her onto her stomach;<sup>40</sup> and
- There was no snow on the ground.<sup>41</sup>

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<sup>33</sup> Testimony of B. K.

<sup>34</sup> Testimony of B. K. Testimony of Ms. Stallard; B. K. Exh. 5.

<sup>35</sup> Compare Testimony of B. K. with AR, pp. 12, 55 & 58.

<sup>36</sup> Compare Testimony of B. K. with B. K. Exh. 5.

<sup>37</sup> Compare Testimony of B. K. with AR, pp. 48-59; B. K. Exh. 5. Neither Ms. E. nor B. K. mentioned that D. P. had slapped B. K. in the face at the time they were interviewed by APD. In the audio tape, B. K. repeatedly tells D. P. to stop “assaulting me” but it is unclear whether this refers to her conduct in attempting to pull him out of the car by grabbing his jacket or something more. See B. K. Exh. 5.

<sup>38</sup> Compare Testimony of B. K. with AR, pp. 47 & 51 (Description of D. P.’s injuries in the police report); AR, p. 49 (B. K. told APD he had no injuries and the policy observed none).

<sup>39</sup> Compare Testimony of B. K. with AR, pp. 52 (APD interview of D. P.), 55 (APD interview of eyewitness U. H.), 58 (APD interview of neighbor S. G., who was an eyewitness to the November Incident). Moreover, APD observed slight marks in the center of her throat area as well as some slight redness on her collar bone on the left side. See AR, p. 53.

<sup>40</sup> Compare Testimony of B. K. with AR, pp. 48-59. There was no mention in the police report of D. P. trying to kick B. K. in the face or of his rolling her onto her stomach. Rather, eyewitnesses reported that D. P. was on the ground on her back after B. K. picked her up and B. K. was kneeling her. See AR, pp. 51, 55 & 58.

<sup>41</sup> Compare Testimony of B. K. with AR, pp. 49 (Ms. E. told APD that B. K. forced D. P. down into the snow); 52 (D. P. told APD that B. K. had shoved her face into the snow).

This testimony was contracted by the police report and/or the audio recording of the November Incident.<sup>42</sup>

### III. Discussion

OCS is required to maintain a child protection registry. When OCS receives a protective services report, it must investigate the allegations and document its findings in the child protection registry. Although the investigation reports and reports of harm are confidential, they may be disclosed other governmental agencies in connection with investigations or judicial proceedings involving child abuse, neglect, or custody. OCS' determination whether allegations of child abuse and neglect were "substantiated," "unsubstantiated," or "closed without a finding" are also documented in the child protection registry.

In situations where OCS enters a substantiated finding, OCS has determined that, more likely than not, the adult in question has abused or neglected a specific child, who is also identified in the registry as a victim of abuse or neglect. When a substantiated finding of neglect and abuse is appealed, OCS has the burden of proving by a preponderance of evidence that the finding should be upheld.<sup>43</sup> This burden has both a factual and legal component: OCS must prove as a matter of fact that certain conduct occurred and, as a matter of law, that the conduct warrants a substantiated finding.<sup>44</sup>

#### A. Legal Framework

Alaska's Child Protection statute, AS 47.17, was enacted to "prevent further harm to the child" and to "safeguard and enhance the general well-being of children" in Alaska.<sup>45</sup> AS 47.17 defines "child abuse or neglect" to mean "physical injury or neglect, mental injury, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person under circumstances that indicate the child's health or welfare is harmed or threatened thereby[.]"<sup>46</sup> The statute then defines one of these terms – "maltreatment" – to mean "an act or omission that results in circumstances under which there is reasonable cause to suspect that a child may be a

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<sup>42</sup> See *supra*, pp. 6-7 at n. 34-41.

<sup>43</sup> The phrase "neglect and abuse" used in the child protection statute includes "maltreatment" of a child. See *infra*, at p. 8.

<sup>44</sup> See *In re J.P.*, OAH No. 20-0012-SAN (Commissioner of Health & Soc. Svcs. 2020), p. 12.

<sup>45</sup> AS 47.17.010.

<sup>46</sup> AS 47.17.290(3).

child in need of aid,” as defined under the separate Child in Need of Aid (CINA) statute, AS 47.10.011.<sup>47</sup>

As has been explained in prior decisions of the Commissioner of Health and Social Services, proof of “reasonable cause to suspect that a child may be a child in need of aid” is a necessary, but not sufficient, basis to sustain a substantiation under the maltreatment prong of AS 47.17.290(3).<sup>48</sup> OCS must still show that the child’s health or welfare was harmed or threatened by an act or omission of the accused.

The CINA statute lists various situations under which a court may find a child to be a child in need of aid if it finds, by a preponderance of the evidence, that the child has been subjected to certain enumerated conduct.<sup>49</sup> One such situation, which is what OCS relied upon for its substantiation here, is domestic violence as outlined in AS 47.10.011(8):

[C]onduct by or conditions created by the parent, guardian, or custodian have . . .

(B) placed the child at *substantial risk of mental injury* as a result of . . .

(ii) exposure to conduct by a *household member, as defined in AS 18.66.990*, against another household member that is a crime under AS 11.41.100 -11.41.220, 11.41.230(a)(1) or (2), or 11.41.410 - 11.41.432, an offense under a law or ordinance of another jurisdiction having elements similar to a crime under AS 11.41.100 -11.41.220, 11.41.230(a)(1) or (2), or 11.41.410 - 11.41.432, an attempt to commit an offense that is a crime under AS 11.41.100 -11.41.220 or 11.41.410 -11.41.432, or an attempt to commit an offense under a law or ordinance of another jurisdiction having elements similar to crime under AS 11.41. 100 -11.41.220 or 11.41.410 -11.41.432 . . .<sup>50</sup>

All of the enumerated crimes in AS 11.41 are crimes of violence ranging from murder to assault. The only crime on this list which has relevance here is AS 11.41.230(a)(1), which is assault in the 4<sup>th</sup> degree (4<sup>th</sup> Degree Assault). This crime occurs when a person recklessly causes physical injury to another person.<sup>51</sup>

*B. B. K.’s Arguments Regarding Why OCS’ Substantiation Should be Overturned*

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<sup>47</sup> AS 47.17.290(9).

<sup>48</sup> See, e.g., *In re K.L.*, OAH No. 16-1145-SAN (Comm’r of Health & Soc. Serv. 2017), at 7.

<sup>49</sup> AS 47.10.011.

<sup>50</sup> See AS 41.10.011(8)(emphasis added); see also OCS’ Pre-Hearing Brief, at pp. 2-3.

<sup>51</sup> See AS 11.41.230(a)(1).



B. K. through his counsel presented two arguments supporting his position that OCS' substantiated finding against him should be overturned.<sup>52</sup> The first was that B. K. was not the aggressor in this case and he had acted in self-defense. B. K. maintains that D. P. was punching him in the head and face despite his pleas to stop, which resulted in his using a double leg takedown maneuver on D. P. and restraining her on the ground "in self-defense."<sup>53</sup> This argument is not persuasive for two reasons: (1) there is conflicting evidence about whether D. P. hit him during the altercation or was simply trying to pull him out of the back of his truck;<sup>54</sup> and (2) B. K.'s claim that the amount of force he used was proportional to the amount of force D. P. had used simply is not credible because B. K. suffered no injuries from D. P.'s alleged attack while she was bruised and suffered a broken finger.<sup>55</sup>

The second argument was that B. K. pled guilty or no contest to a harassment charge (Count I of the Information), which "does not qualify as domestic violence."<sup>56</sup> This, however, was not an acquittal on a charge of domestic violence. It was merely an agreement whereby B. K. agreed to a lesser charge in order to avoid a greater *criminal* charge. Moreover, given the disparity between the burdens of proof for criminal and civil matters, even if B. K. had been acquitted of committing a crime of domestic violence because there was not proof beyond a reasonable doubt, it would not resolve the *civil* issue of whether there was proof by a preponderance of the evidence of domestic violence. As a result, B. K.'s plea in a criminal case to a harassment charge, when he had initially been charged with domestic violence assault, has no bearing upon the decision in this case.

"Domestic violence" is defined as "violence between members of a household."<sup>57</sup> The term "household members" is defined to include persons who have lived together, who have dated, who have engaged in a sexual relationship, persons who have a child from the relationship, and minor children of a person in such a relationship.<sup>58</sup> Here, B. K. and D. P. were household members, as defined in AS 18.66.990(5), and the altercation involved conduct by B.

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<sup>52</sup> During the cross-examination of Ms. Stallard, B. K.'s counsel also alluded to OCS' failure to find that D. P., who instigated the verbal altercation that eventually ended in the physical altercation, also engaged in domestic violence during the November Incident. However, the substantiated finding being appealed here relates to B. K.'s conduct so OCS' decision to only substantiate against one parent and not the other has no relevance to this appeal.

<sup>53</sup> B. K. Trial Brief, pp. 1-2; *see also* Testimony of B. K.

<sup>54</sup> *Compare* AR, pp. 11-13 & 51-53 *with* AR, pp. 49 & 58.

<sup>55</sup> Testimony of B. K.; AR, pp. 13-18, 47 & 49.

<sup>56</sup> B. K. Trial Brief, p. 2.

<sup>57</sup> Black's Law Dictionary (7<sup>th</sup> Ed.), p. 1564.

<sup>58</sup> *See* AS 18.66.990(5).

K. that caused D. P.'s injuries.<sup>59</sup> Accordingly, there is no merit to the argument that B. K. cannot be found to have engaged in domestic violence against D. P.

*C. Substantiated Finding of Risk of Mental Injury*

Since B. K. and D. P. are household members and B. K. engaged in conduct against D. P., the three remaining issues are: (1) whether P. K. was exposed to this conduct; if so, (2) whether B. K.'s conduct during the November Incident was a crime which has *elements* similar to a crime under AS 11.41.230(a)(1); and (3) was P. K.'s health or welfare threatened.

1. Was P. K. Exposed to B. K.'s conduct Against D. P.?

Both D. P. and U. H. told OCS that fifteen-month old P. K. was inside the D. P.'s truck and did not see the assault occurring outside the truck.<sup>60</sup> According to D. P., B. K. was at the rear door of her truck when she began trying to pull him out of her truck.<sup>61</sup> B. K. has testified that P. K. was in a car seat at that time and D. P. may have thought he was trying to remove P. K. from his car seat.<sup>62</sup> Thus, it is more likely than not that P. K., ensconced in his car seat, would not have seen the B. K. pick up D. P. outside of the truck or throw her down to the ground where he pinned one of her hands behind her back. P. K. would, however, undoubtedly have heard the loud altercation in close proximity to him, since U. H. and her youngest daughter heard it from inside of the house and a neighbor across the street heard the commotion.

2. Did B. K.'s Conduct Have Elements Similar to a Crime listed under AS 47.10.011(8)(B)(ii)?

In order to prevail in this case, OCS has undertaken to show that the conduct to which P. K. was exposed would be a "crime under AS 11.41.100 – 11.41.220, 11.41.230(a)(1) or (2)..."<sup>63</sup> As result, OCS must show the B. K.'s conduct constituted the elements of one of the enumerated criminal offenses. The elements of a crime are the constituent parts of a crime that the prosecution must prove to sustain a conviction.<sup>64</sup> AS 11.41.230(a)(1) is one of the enumerated criminal offenses. That statute identifies the crime of assault in the fourth degree, a class A misdemeanor, as occurring when a "person recklessly causes physical injury to another person."<sup>65</sup> The evidence shows that B. K. physically assaulted the mother of his child in close

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<sup>59</sup> See AS 18.66.990(5); AR, pp. 13-18.

<sup>60</sup> AR, pp. 19-20.

<sup>61</sup> AR, p. 53.

<sup>62</sup> Testimony of B. K.

<sup>63</sup> See AS 47.10.011(8)(B)(ii).

<sup>64</sup> See Blacks' Law Dictionary (7<sup>th</sup> Ed.), p. 538.

<sup>65</sup> AS 11.41.230(a)(1).

proximity to P. K. Because it was a physical assault that injured D. P., B. K.’s conduct towards D. P. has elements that parallel the crime of Assault in the 4<sup>th</sup> degree under AS 11.41.230(a)(1).

3. Was P. K.’s Health or Welfare Harmed or Threatened?

The Alaska Supreme Court has strongly emphasized that domestic violence can have a devastating impact on children.<sup>66</sup> Given this recognition of the potential impact that domestic violence can have on children, the law allows us to conclude that the person who committed the assault against a family member put the child at risk of mental injury.

Here, P. K. was old enough to be aware that frightening conduct between his parents was occurring around him. The violent actions of B. K. in close proximity to P. K., quite apart from the noise during the altercation, comes with the *threat* that P. K. will observe the conduct even if, by good fortune, that did not occur. Thus, P. K.’s welfare was “threatened thereby.”

OCS has shown, by a preponderance of the evidence, that B. K. caused P. K. to be exposed to his domestic violence against D. P. This conduct placed P. K. at substantial risk of mental injury within the meaning of AS 47.17.290(9) and 47.10.011(8).

**IV. Conclusion**

OCS’ substantiated finding that B. K. placed his son P. K. at substantial risk of mental injury and thereby engaged in maltreatment of a child is AFFIRMED.

Dated: November 30, 2020

*Signed* \_\_\_\_\_  
Kathleen A. Frederick  
Administrative Law Judge

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<sup>66</sup> See *In re J.A.*, 962 P. 3d 173, 178 (Alaska 1998), citing *Borchgrevink v. Borchgrevink*, 941 P. 2d 123, 140 (Alaska 1997); see also *Martin N. v. State*, 79 P.3d 50, 55 (Alaska 2003).

## Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 18<sup>th</sup> day of December, 2020.

By: *Signed* \_\_\_\_\_  
Kathleen A. Frederick  
Chief Administrative Law Judge

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]