

# **Domestic Violence Reporting Laws**

## **C. Domestic Violence**

### **What Is Domestic Violence?**

Domestic violence is a pattern of assault and coercive behaviors, including physical, sexual and physiological attacks, as well as economic coercion, that adults or adolescents use against their intimate partners to gain or maintain power and control.

Domestic violence (DV) behaviors include: degrading remarks, economic exploitation, punches and kicks, false imprisonment, sexual abuse, suffocating actions, maiming assaults, violence used to reinforce power and control of one person over another, and homicide. DV usually increases in frequency and severity. Violent episodes may be infrequent or frequent, prolonged or brief, severe or mild.

The perpetrator may begin abuse against children or direct violence or threats of violence against the victim's family or friends. The perpetrator may also remind the victim that not complying with demands may lead to violent assaults. Verbal and emotional abuse may be more subtle than physical harm but it does not mean it is less destructive.

Domestic violence is a compilation of Alaska laws that describe crimes committed (or attempted) by one household member against another. These include:

- a. Crimes against a person, including homicide, assault and reckless endangerment, kidnapping and custodial interference, sexual offenses, and robbery, extortion and coercion.
- b. Burglary (defined as entering or remaining unlawfully in a building with intent to commit a crime in the building).
- c. Criminal trespass (defined as entering or remaining unlawfully in a dwelling, or on land with intent to commit a crime on the land).
- d. Arson or criminally negligent burning (intentional or negligently damaging a building by starting a fire or causing an explosion).
- e. Criminal mischief (intentionally or with reckless disregard damaging the property of another or tampering with food, air, water, etc. intending to cause physical injury to another person).
- f. Terrorist threatening (sending a material either capable or apparently capable of causing serious physical injury to any person, or making a false report

about a dangerous circumstance which causes a person to reasonably fear physical injury).

- g. Violation of a domestic violence order.
- h. Harassment (telephonic interference, repeated telephone calls at extremely inconvenient hours, anonymous or obscene telephone call, or a telephone call that threatens physical injury).

### **What Is A Household Member?**

*A household member includes:*

- Adults or minors who are current or former spouses.
- Adults or minors who live together or who have lived together.
- Adults or minors who are dating or who have dated.
- Adults or minors who are engaged in or who have engaged in a sexual relationship.
- Adults or minors who are related to each other up to the fourth degree of consanguinity, whether of the whole or half blood or by adoption.
- Adults or minors who are related or formerly related by marriage.
- Persons who have a child of the relationship.
- Minor children of a person in a relationship described above.

### **Is A Counselor Required To Disclose Information?**

Generally, a counselor may not disclose any information, including giving testimony or providing records, in a criminal, civil, legislative, or administrative proceeding, without appropriate consent.

### **What Is Appropriate Consent?**

Appropriate consent means consent given by the person who was harmed if that person is an adult or by that person's parent, legal guardian, or guardian ad litem if the person is a minor or is incompetent to testify.

### **Can A Waiver Be Given To Permit The Counselor To Testify?**

Yes. A minor may give permission for the counselor to testify if a court determines that the minor is capable of knowingly giving permission. A parent or legal guardian may also give permission unless the parent has been charged with a crime against the minor, or a protective order has been entered against the parent or legal guardian on behalf of the minor, or the parent or legal guardian has an interest in the case that is adverse to the interests of the minor.

## **When is a Counselor Required to Disclose Information?**

A counselor must disclose information:

- If the counselor is required to report child abuse or neglect under Alaska law.
- If there is evidence that the person who was harmed is about to commit a crime.
- If the person who was harmed dies and there is a proceeding after his or her death.
- If there is an issue of breach of the counseling relationship.
- If the communication is an “excited utterance” under the Alaska Rules of Evidence.
- In a child-in-need-of-aid proceeding.
- If the services of the counselor were sought to enable a person to commit a crime, or escape detection or apprehension after having committed a crime.
- In a criminal proceeding against a domestic violence victim or sexual assault where the victim was charged with a crime against a minor or in which the physical, mental, or emotional condition of the victim is raised as a defense.

## **What Can I Do If I Live In a Village and Need to Obtain a Domestic Violence Restraining Order Against Someone?**

If the Village has a Village Public Safety Officer (VPSO), you should immediately contact the VPSO and inform him or her about the domestic violence situation. The VPSO may request that you leave your residence and move to a safe location in the Village.

After you have moved to a safe location, you should call the Court nearest to your village and tell the court administrator (this may be a Judge, Magistrate or Clerk of the Court) that you need a domestic violence restraining order against the individual who has harmed you. IWCA Workers, Health Aides, schools, etc. have Internet access and the domestic violence petition forms can be obtained by going to [www.state.ak.us](http://www.state.ak.us). Or Alaska Court locations and phone numbers for the courts are listed under Tab F. The court will fax you a domestic violence petition form which you should fill out and fax back. The court will then schedule an immediate hearing on your domestic violence petition.

After the hearing, and depending on whether the court finds that domestic violence occurred, the court will issue a 20 day domestic violence order, and schedule another hearing if a longer-term domestic violence order is sought. The domestic violence order will be served on the person who harmed you by the VPSO.

If you have the funds and can afford an attorney, you may call the Alaska Bar Association Lawyer Referral (907) 272-0352 for Anchorage residents, or (800) 770-9999 for outside Anchorage, and ask for names of attorneys who, for a fee,

can help you obtain a domestic violence order.

**What Are Appropriate Responses?** Culturally relevant suggestions for responses should be used. Responses might be:

- “I’m sorry this happened—you didn’t cause this.”
- “This must be hard for you.”
- “It must be painful when someone you live with can be this scary.”
- “It’s not your fault—what can I do to support you today?”