

# HOW TO GET A DOMESTIC VIOLENCE PROTECTIVE ORDER

## FIRST THINGS FIRST

### ***Do you need to report a crime to the police?***

If you need to report a crime, contact the police or Alaska State Troopers directly and tell them what happened. If you are in immediate danger, call 911. Asking for a domestic violence protective order (DVPO) is not the same thing as reporting a crime of domestic violence to the police. You have the right to make a police report at any time, no matter how much time has passed since the crime happened.

### ***Do you need help staying safe?***

There are many resources available on the Internet, at the library, and at your local domestic violence and sexual assault victim advocacy offices to help you develop a safety plan and a safe parenting plan. For more information, ask the court clerk for a list of resources.

### ***Do you need help filling out the forms?***

Ask the court clerk for help filling out forms, or contact the free Family Law Self-Help Center in Anchorage at (907) 264-0851, or elsewhere in Alaska (toll-free) at (866) 279-0851. The Family Law Self-Help Center is available to take your call Monday through Thursday from 7:30 a.m. to 6 p.m. *Servicios en español: lunes a jueves 9:00 a.m. hasta 6:00 p.m.*  
Online: [www.state.ak.us/courts/selfhelp.htm](http://www.state.ak.us/courts/selfhelp.htm).

### ***Do you need a language interpreter for your hearing?***

If you need a language interpreter during your hearing, tell the court clerk when you file your petition. Please do not wait until your hearing starts to make your request. *Si usted necesita un intérprete de su idioma para la audiencia, dígame al empleado de la corte cuando usted presente su petición y confirme la información antes de que la audiencia empiece.*

## INTRODUCTION

If somebody you have a relationship with commits domestic violence against you or against another member of your household, you can ask the court for a protective order to make the violent person stay away and not contact you. Your written request is called a "petition." It is a court form that you can fill out by hand or on a computer. Please read these instructions before you start filling out the petition form. A court clerk can help you fill out the form, but they cannot give you legal advice.

There is no fee for filing the petition.

**If you have access to the Internet, you can fill out the petition form online, print it out, and bring it to the courthouse nearest you. To find the form online, go to:**

<http://www.courts.alaska.gov/forms.htm#dv>.

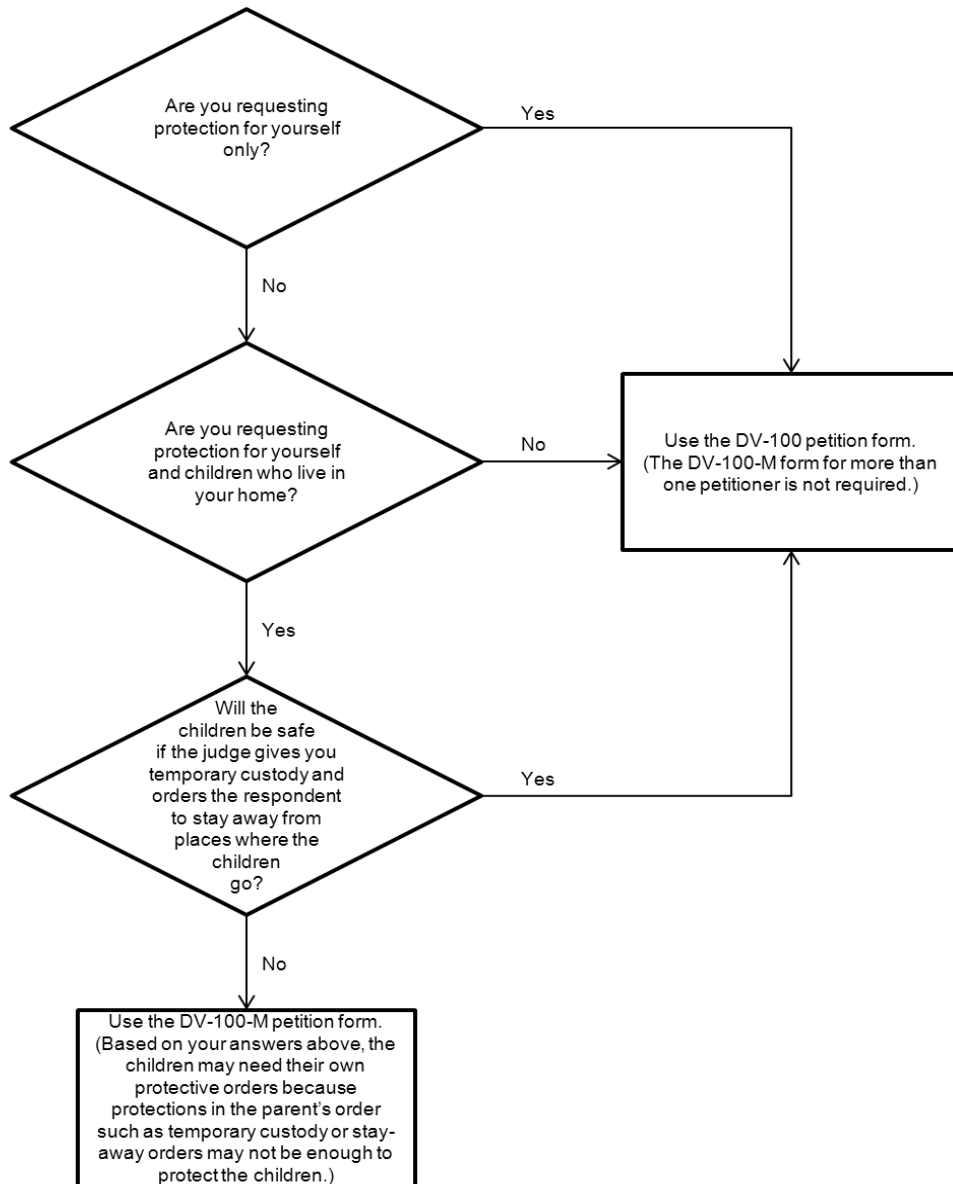
**You can also get the form from any court customer service office and fill it out there. If you are filling out the form by hand, please print clearly, using black ink if possible.**

## INSTRUCTIONS FOR FILLING OUT THE PETITION FORM

### Which form should you use?

Before you fill out the petition form, you need to decide who needs protection. Does just one person need protection, such as yourself? Or does more than one person need protection, such as yourself and your child? The DV-100 petition form can be used to request protection for yourself. The DV-100 form can also be used to request protection for yourself, and to request temporary custody and stay-away orders to protect your children. (Examples of stay-away orders include orders to stay away from the children's school or daycare center.) The DV-100-M petition is used in rare circumstances when you seek protection for more than one person, and when temporary custody and stay-away orders are not enough. Please see the diagram below:

Which petition form should I use?



If you are requesting protection for just one person, use form [DV-100](#). You may also use form [DV-100](#) if you are requesting protection for yourself and temporary custody of your children. Let the diagram on page 2 be your guide in making this decision. In the space for "PETITIONER," write the name and birth date of the person you believe needs protection. Check the box for the petitioner's gender (M is for male, F is for female). If the petitioner (protected person) is a child, you must also write your name if you are signing the petition for your child, your date of birth, and the relationship between yourself and the petitioner.

In the space for "RESPONDENT," write the name of the person you believe the petitioner needs protection from (restrained person). Check the box for the respondent's gender (M is for male, F is for female). Write the respondent's date of birth in the space provided. If the respondent is a child, you must also write the name of the respondent's parent, guardian, or other person who is legally responsible for the respondent. Leave the "CASE NO." line blank. This will be assigned by the court clerk.

In *rare* situations, you may request protective orders for more than one petitioner using form [DV-100-M](#). Refer to the diagram on page 2 as your guide to selecting the petition form that is right for you. The DV-100-M form has enough space for you to write in the name, birth date, and relationship for each person needing protection. In the space for "RESPONDENT," write the name of the person you believe the petitioners need protection from. Write the respondent's date of birth in the space provided. If the respondent is a minor (less than 18 years old), please also write the name of the respondent's parent, guardian, or other person who is legally responsible for the respondent (if you know who that is). Leave the "CASE NO." lines blank. These will be assigned by the court clerk.

#### 1. TYPE OF ORDER.

***Do you need a short-term order for 20 days, a long-term order for one year, or both?***

- a. Short-Term Order (20 Days). Check the first box if you want a short-term order. This is also called a "20-day order" and an "ex parte order." The court can grant a 20-day order without first giving the respondent notice of your request or an opportunity to contest it. The order will be effective for 20 days unless the court dissolves or modifies it sooner. If you check the first box, you must also check one of the two boxes indented after it, explaining any efforts you made to notify the respondent that you are requesting a protective order.
- b. Long-Term Order (One Year). Check the second box if you want a long-term protective order. This is also called a "one-year order." A long-term order can only be granted after the respondent is given notice of your request and an opportunity to contest it at a court hearing. The respondent must receive notice of the hearing at least 10 days before the hearing. Most provisions in a long-term order will last for one year. However, the requirement that the respondent not commit domestic violence will last indefinitely, until the court terminates it.
- c. Both a Short-Term and a Long-Term Order. If you want both the immediate protection of a 20-day order and the longer protection of a long-term (one year) order, check both boxes.

**2. HOW ARE PETITIONER AND RESPONDENT RELATED? (Check all that apply.)**

In section 2, check all the boxes that describe petitioner's relationship to the respondent. To get a protective order, the person you name as respondent must be a "household member" as defined in Alaska Statute 18.66.990(5). (The statute is reprinted on page 8.) The term "household member" includes a wide variety of relationships. Check every box that describes how the petitioner and respondent are related.

*My relationship with the respondent is not listed. What should I do?*

If there is no check box for the relationship between the petitioner and the respondent, or if the person who the petitioner needs protection from is a friend, student at the same school, neighbor, co-worker, landlord, tenant, or someone the petitioner does not know, you should fill out a *Stalking or Sexual Assault Petition (CIV-752)* instead of the forms in this packet. Ask the court clerk for the *Stalking or Sexual Assault Packet*.

**3. ARE THERE CHILDREN IN PETITIONER'S HOUSEHOLD?**

Check the "yes" box in section 3 if any children live with the petitioner, whether or not they are the petitioner's children.

**4. DESCRIBE THE DOMESTIC VIOLENCE.**

Answer each question under number 4. Explain what the respondent did to you and/or other members of your household, when and where it happened, whether children were involved, whether there were weapons used or available at the time, and whether there were any injuries.

Be as direct as possible when describing what happened. The judge needs a clear picture of the event that brought you to court today as well as any times in the past when the respondent hurt you, your children, other members of your household, or your pets; or damaged your property. To get a protective order, you must show the court that the respondent committed or tried to commit a "crime involving domestic violence."<sup>1</sup> A list of crimes involving domestic violence appears at the end of these instructions. For example, you might write the following:

*On July 7th in the late afternoon, John came into the kitchen, grabbed my arms, and pulled me into the living room. He shoved me onto the couch. He called me a bitch and started to hit me. He used his closed fists, and hit me in the eye and the mouth. My four-year-old daughter was in the room and yelled at him to stop. He did not have a weapon.*

In addition, you should let the judge know about other times the respondent committed domestic violence against you, your children, or other people (for example, previous relationships you may know about when the respondent was violent).

**5. PROTECTIONS REQUESTED. (Check all that apply.)**

Check the boxes and fill in the blanks for all the protections you want the judge to include in your protective order. The items in section 5 can be included in both a 20-day order and a one-year order.

<sup>1</sup> "Crimes involving domestic violence" are defined in Alaska Statute 18.66.990(3); the statute is reprinted on pages 8-9.

## 6. LONG-TERM PROTECTIONS REQUESTED.

By law, the items in this section can only be included in a long-term order, not a 20-day order. Check the protections you want from the court.

## 7. CHILDREN. (If you are not requesting custody or child support, please skip to question 8.)

If you want the court to grant you temporary custody of any children while the protective order is in effect, fill out section 7.

- (a) List the children and fill in the other information about them. Most of this information is necessary in order for the court to be sure it has the power to make decisions about custody.
- (b) The court may allow the respondent to have visitation with the children while you have custody of them as long as your safety and the safety of the children can be protected. In the space provided on the form, describe any safety concerns you have and tell the court what visitation schedule would work, if any, and where safe exchanges of the children can take place. For some examples of visitation conditions the court can set, see Alaska Statute 25.20.061 reprinted on page 8 of these instructions.
- (c) If there is already a court order about payment of child support, skip this section. If there is no court order about child support, and you want to ask the court to order the respondent to pay child support, fill in this section.

**Important:** The information in this section should be enough for the court to make a decision about temporary child support in the 20-day order. But if you want to ask for child support for the long-term order, you need to fill out form [DV-101](#) (*Child Support Information*) or [DR-305](#) (*Child Support Guidelines Affidavit*), and bring it to the court hearing on the long-term order or file it with the court before that hearing. Both forms are available online at the Court System's website. You must also bring proof of your income and the respondent's income to the long-term hearing. This includes documents such as paystubs, tax returns, W2 forms, and 1099 forms. Even if you have not filled out the DV-101 or DR-305 form, bring proof of income to the hearing anyway. The respondent will also have to fill out a DR-305 form.

## 8. OTHER CASES.

- (a) You must list two types of open court cases involving either you or the respondent, including:
  - Open civil cases such as divorces, dissolutions, and child custody cases; and
  - Open domestic violence criminal cases. A criminal case is a case brought against a person by a government (local, state, or federal) charging the person with a crime. See the list of domestic violence crimes in Alaska Statute 18.66.990(3) on page 9 and the discussion in section 4 on page 4.
- (b) You must also list all other open and closed cases that you know about which involve the respondent. This would include, for example, previous criminal charges or convictions.

## 9. ASSISTANCE FROM LAW ENFORCEMENT.

If the judge decides that you should get possession of a residence, vehicle, or personal items (such as pets), the judge can order the police or troopers to help you get those things. The judge can also order law enforcement to help you get temporary custody of your minor children. Check all the boxes that apply to your situation.

## 10. INFORMATION ABOUT RESPONDENT.

This is one of the most important parts of the petition. Fill in as much of this information about the respondent as you know. It will help the police or troopers find the respondent and serve the paperwork. It will also help the police with enforcement of the order if it is granted. In addition, the court needs the respondent's mailing address and telephone numbers in order to send paperwork to the respondent and notify him or her about hearings.

## 11. INFORMATION ABOUT PETITIONER.

If possible, fill in an address where the court can send paperwork to you. **Do not fill in the actual physical address where you are staying if you think it might be dangerous for the respondent to know where you are.** Instead, give a message address (for example, a friend's address) where you can be sure you will quickly receive any papers the court sends to you.

The court also needs a phone number where you can be reached or where messages can be left for you. List a number that is safe for the respondent to know (because the respondent will most likely get a copy of your petition).

If you have no phone number or address that can be safely revealed to the respondent, ask the clerk how you can provide the information so that it will be kept confidential and not revealed to the respondent.

## SIGNATURE SECTION.

Your signature on the petition must be notarized because you are making your statements under oath. The court clerk will notarize your petition free of charge.

## OTHER PAPERWORK

You must fill out two more forms so the court's order and other paperwork can be delivered to (served on) the respondent by a peace officer. These forms are available from the court clerk's office or online at: <http://www.courts.alaska.gov/forms.htm#dv>.

1. **DV-125, Request for Service of Domestic Violence Documents**

Fill in your name and the respondent's name. The clerk will fill in the rest.

2. **DV-127, Law Enforcement Information Sheet**

Fill in everything on this form. This is a **confidential** document that will be given to the police or troopers to help them serve court orders on the respondent and then enforce those orders. Pursuant to Civil Rule 65.1, access to this form will be limited to the petitioner and court staff.

The police need this information in order to find the respondent and to be as safe as possible when they contact the respondent. Please provide as much information as you can on this form. If the police cannot locate the respondent, they cannot serve the order.

The police also need to be able to contact you.

The Alaska State Troopers will assist you in getting your order served on the respondent if he or she is living outside of Alaska. There is no fee for this. You may also serve the order through a private process server or by certified mail.

## **COURT HEARINGS**

The court will set a date for a hearing on your request for a long-term order (if you asked for a long-term order). The respondent must be notified of your request and have a chance to appear at the hearing. You may ask the court to allow you to participate in the hearings by telephone rather than in person (for example, if you have reason to be afraid of being in the same room with the respondent).

You have the right to request an audio tape or CD of the proceedings that took place at the 20-day *ex parte* hearing. Ask the court clerk to assist you with this request.

If you need a language interpreter for the hearing, tell the clerk when you file the petition and ask the court before the hearing begins. *Si usted necesita un intérprete de su idioma para la audiencia, dígame al empleado de la corte cuando usted presente su petición y confirme la información antes de que la audiencia empiece.*

## **MODIFYING OR DISSOLVING PROTECTIVE ORDERS**

After the court issues the protective order you can ask the court to change (modify) or end (dissolve) the order. Use form [DV-135](#), *Request to Modify or Dissolve Protective Order*, available at the clerk's office or online at <http://www.courts.alaska.gov/forms.htm#dv>.

For example, if you want to increase the types of contact allowed, you do not need to ask the court to dissolve the order, you can just ask the court to modify the order by adding the new type of contact (such as texting or emailing).

If you need additional orders to protect you or your children, you can use the same form ([DV-135](#)) to ask the court to add more orders.

Before deciding whether or not to grant your request to change or end the protective order, the court will hold a hearing at which both you and the respondent must be given an opportunity to appear and participate.

## ALASKA STATUTES

The following are the Alaska statutes referred to in these instructions.

### ***Alaska Statute (AS) 18.66.990. Definitions***

- (3) "domestic violence" and "crime involving domestic violence" mean one or more of the following offenses or an offense under a law or ordinance of another jurisdiction having elements similar to these offenses, or an attempt to commit the offense, by a household member against another household member:
- (A) a crime against the person under AS 11.41;
  - (B) burglary under AS 11.46.300 - 11.46.310;
  - (C) criminal trespass under AS 11.46.320 - 11.46.330;
  - (D) arson or criminally negligent burning under AS 11.46.400 - 11.46.430;
  - (E) criminal mischief under AS 11.46.475 - 11.46.486;
  - (F) terroristic threatening under AS 11.56.807 or 11.56.810;
  - (G) violating a protective order under AS 11.56.740(a)(1); or
  - (H) harassment under AS 11.61.120(a)(2) - (4);
- (5) "household member" includes:
- (A) adults or minors who are current or former spouses;
  - (B) adults or minors who live together or who have lived together;
  - (C) adults or minors who are dating or who have dated;
  - (D) adults or minors who are engaged in or who have engaged in a sexual relationship;
  - (E) 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, computed under the rules of civil law;<sup>2</sup>
  - (F) adults or minors who are related or formerly related by marriage;
  - (G) persons who have a child of the relationship; and
  - (H) minor children of a person in a relationship that is described in (A) - (G) of this paragraph[.]

### ***Alaska Statute 25.20.061. Visitation in Proceedings Involving Domestic Violence.***

If visitation is awarded to a parent who has committed a crime involving domestic violence, against the other parent or a child of the two parents, within the five years preceding the award of visitation, the court may set conditions for the visitation, including

- (1) the transfer of the child for visitation must occur in a protected setting;
- (2) visitation shall be supervised by another person or agency and under specified conditions as ordered by the court;
- (3) the perpetrator shall attend and complete, to the satisfaction of the court, a program for the rehabilitation of perpetrators of domestic violence that meets the standards set by the Department of Corrections under AS 44.28.020(b), or other counseling; the perpetrator shall be required to pay the costs of the program or other counseling;
- (4) the perpetrator shall abstain from possession or consumption of alcohol or controlled substances during the visitation and for 24 hours before visitation;
- (5) the perpetrator shall pay costs of supervised visitation as set by the court;
- (6) the prohibition of overnight visitation;
- (7) the perpetrator shall post a bond to the court for the return and safety of the child; and
- (8) any other condition necessary for the safety of the child, the other parent, or other household member.

---

<sup>2</sup> This includes parents; children; grandchildren; great grandchildren; great, great grandchildren; grandparents; great grandparents; great, great grandparents; brothers and sisters; nephews; grand nephews; nieces; grand nieces; uncles; aunts; great uncles; great aunts; and first cousins.

## CRIMES INVOLVING DOMESTIC VIOLENCE

### To qualify as a domestic violence crime:

- a. a crime must be committed or attempted;
- b. by one household member against another household member (see the previous page about the meaning of "household member"); and
- c. must be one of the crimes listed in the Alaska statute, or a violation of a similar law of another jurisdiction (another city or state).

### The following are some examples of crimes that qualify:

**Assault** is when one person physically harms another person, or when one person threatens to physically harm another person and could immediately carry out the threat. **NOTE:** You may be able to get a protective order even if the person the petitioner needs protection from has not physically hit the petitioner.<sup>3</sup>

**Burglary** is when someone enters or remains unlawfully in a building planning to commit a crime in the building.

**Criminal mischief** is when one person purposefully damages another person's property.

**Criminal trespass** is when someone enters or remains unlawfully on land, in a home, or in a vehicle.

**Custodial interference** is when a family member takes or keeps a child without any legal right to do so, and intends to keep the child from the lawful guardian for an extended period of time. An example is when a parent leaves the state with a child without providing any contact information and without the other parent's knowledge. It is NOT custodial interference when a parent fails to return the child at the agreed-upon time.

**Extortion and coercion** are crimes that are commonly called "blackmail." They involve someone causing or threatening physical injury, or other types of harm to get another person's property or to make another person do something they do not want to do. An example is someone threatening to beat you up unless you have sex with them.

**Harassment** is when someone:

- calls on the phone and will not hang-up so another person cannot make or receive calls;
- makes repeated telephone calls at extremely inconvenient hours; or
- makes a call or electronic communication that is anonymous or obscene, or threatens physical injury or sexual contact.

**Kidnapping** is when a person holds another person against their will. Usually, it also means the person is planning to physically or sexually assault the other person, or creates a significant risk that the person will seriously injure the other person.

---

<sup>3</sup> See Alaska Statute 18.66.990(3), on page 7.

**(CRIMES INVOLVING DOMESTIC VIOLENCE CONTINUED)**

**Reckless endangerment** is when a person's actions create a high risk of serious physical injury to another person. An example is when you are driving down the highway and the passenger grabs the steering wheel, trying to force you off the road.

**Robbery** is when a person uses force to take property that another person is carrying.

**Sexual crimes** include all forms of sexual assault, incest, and rape. Sexual crimes can occur even if the parties are married.

**Stalking** is when someone repeatedly contacts or follows another person against their will, and anyone in a similar situation would believe they are at risk of physical injury or death.

**Terroristic threatening** is when someone makes a false report of a life-threatening situation that places another person in fear of physical injury.

**Violating a protective order** is when a person who has a protective order against them does something that violates part of the protective order.

**What if the crime committed against me or my minor child is not listed above?** The following may not be domestic violence crimes for purposes of getting a protective order, unless they are part of one of the crimes listed above, and you may need to seek relief a different way:

- Theft
- Forgery
- Drug or alcohol abuse
- Child neglect
- Violation of court orders (except protective orders), including custody, visitation and support orders (unless the violation amounts to custodial interference)
- Slander
- Threats to file a lawsuit, or to make reports to the police or other governmental agencies