

IN THE SUPREME COURT OF THE STATE OF ALASKA

ORDER NO. 1289

Amending Criminal Rules 3, 7,
and 32 to address crimes
involving domestic violence.

IT IS ORDERED:

1. Criminal Rule 3 is amended to include a new paragraph (d) which reads:

(d) Crimes Involving Domestic Violence.
If a defendant is charged with an offense listed in AS 18.66.990, the complaint should indicate whether the prosecuting authority intends to claim that the alleged offense is a crime involving domestic violence as defined in AS 18.66.990(3) and (5).

2. Paragraph (c) of Criminal Rule 7 is amended to read:

(c) Nature and Contents — Defects of Form Do Not Invalidate. The indictment or the information shall be a plain, concise and definite written statement of the essential facts constituting the offense charged. It shall be signed by the prosecuting attorney. It need not contain a formal commencement, a formal conclusion or any other matter not necessary to such statement. Allegations made in one count may be incorporated by reference in another count. It may be alleged in a single count that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. The indictment or information shall state for each count the official or customary citation of the statute, rule,

regulation or other provision of law which the defendant is alleged therein to have violated. Error in the citation or its omission shall not be ground for dismissal of the indictment or information or for reversal of a conviction if the error or omission did not mislead the defendant to the defendant's prejudice. No indictment is insufficient, nor can the trial, judgment or other proceedings thereon be affected by reason of a defect or imperfection in matter of form in the indictment, which does not tend to prejudice the substantial rights of the defendant.

When an indictment is found, the names of all witnesses examined before the grand jury must be inserted at the foot of the indictment, or endorsed thereon, before it is presented to the court. If the defendant is charged with an offense listed in AS 18.66.990, the indictment or information must indicate whether the prosecution claims that the alleged offense is a crime involving domestic violence as defined in AS 18.66.990(3) and (5). ~~No indictment is insufficient, nor can the trial, judgment or other proceedings thereon be affected by reason of a defect or imperfection in matter of form in the indictment, which does not tend to prejudice the substantial rights of the defendant.~~

3. Criminal Rule 32 is amended to include a new paragraph (d) which reads:

(d) Judgment for Crimes Involving Domestic Violence. In a case in which the defendant is convicted of an offense listed in AS 18.66.990(3) and the prosecution claims at sentencing that the offense is a crime involving domestic violence, the court must determine whether the offense is a crime involving domestic violence as defined in AS 18.66.990(3) and (5). This determination must be made on the record and noted on the judgment.

DATED: September 4, 1997

EFFECTIVE DATE: January 15, 1998

/s/
Chief Justice Matthews

/s/
Justice Compton

/s/
Justice Eastaugh

/s/
Justice Fabe

/s/
Justice Bryner