

## INSTRUCTIONS FOR REQUESTING A PROTECTIVE ORDER AGAINST STALKING OR SEXUAL ASSAULT

Step 1. Fill out the following forms:

- a. *Petition* (CIV-752)
- b. *Request for Service of Protective Order Documents* (DV-125)
- c. *Law Enforcement Information Sheet* (DV-127)

See instructions on pages 2-4. If you need help, a court clerk can help you.

Step 2. Take the forms to the clerk's office at the nearest court. There is no fee for filing them. Some courts will also allow you to file them by fax.

Step 3. If you are requesting an immediate 20-day "ex-parte" order, a judge will review your petition soon after you file it and decide whether to issue the 20-day order. The judge may need to ask you questions about your petition in a short hearing.

Step 4. If the judge decides to issue the 20-day order, the order must be served on (delivered to) the person who is stalking or sexually assaulting you (called "the respondent") by a peace officer.

Note if the Respondent is Outside Alaska: The Alaska State Troopers will assist with the service of orders on a respondent who resides outside of the State of Alaska. AST will contact a law enforcement agency in the area where the respondent is located to request assistance in service of the order. AST will send a copy of the order to the law enforcement agency for service. If you need assistance in having an order served outside Alaska, you can call Alaska State Trooper Judicial Services in Anchorage at 907-264-0699 or contact your local state trooper post.

Step 5. If you request a long-term (6-month) order, the court will schedule a hearing to be held before the 20-day order expires. Both you and the respondent will be given a chance to speak at this hearing. You must attend the hearing and explain why you want the order, or no long-term order will be issued.

### Court Hearings

The court will notify you of any hearings in your case. You may ask to participate by telephone rather than in person (for example, if you do not want to be in the same room with the respondent).

### Modification and Dismissal

After the court issues the protective order, you can ask the court to change (modify) or end (dissolve) the order. So can the respondent. Use form DV-135, *Request to Modify or Dissolve Protective Order* (available at the clerk's office).

To decide most of these requests, the court will be required to hold a hearing. Both you and the respondent may appear and participate in these hearings.

## How to Fill out the Petition Form

Fill in the top of the form as shown in the following illustration:

IN THE DISTRICT/SUPERIOR COURT FOR THE STATE OF ALASKA AT <u>City Where Court is Located</u>	
<u>Your Full Legal Name</u> ) Petitioner Date of Birth <u>Your DOB</u> ) <input type="checkbox"/> Male <input type="checkbox"/> Female ) v. <b>Check your gender</b> )	CASE NO. _____
<u>Stalker's or Assailant's Full Legal Name</u> ) Respondent Date of Birth <u>Stalker/Assailant's DOB</u> ) <input type="checkbox"/> Male <input type="checkbox"/> Female ) <b>Check stalker/assailant's gender</b> )	PETITION FOR PROTECTIVE ORDER <input type="checkbox"/> Stalking <input type="checkbox"/> Sexual Assault
<b>Check which type of order you are requesting (protection against stalking or sexual assault)</b>	

Print clearly, using black ink.

1. In section 1, check the appropriate box or boxes.

**20-Day.** Check the first box if you want an immediate 20-day "ex parte"<sup>1</sup> order. An ex parte order is an order the court can grant without first giving the respondent notice of your request and an opportunity to contest it. An ex parte 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 have made to notify the respondent that you are requesting a protective order.

**Long-Term.** Check the second box if you want a long-term protective 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. The long-term order will last for six months.

**Both.** If you want both the immediate protection of a 20-day order and the longer term protection of a long-term order, check both boxes.

2. In section 2, describe how you know the respondent, if you know the respondent at all.
- 3-4. In sections 3 and 4, check the boxes that fit your situation.

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<sup>1</sup> "Ex parte" is a Latin expression, meaning from one side only of a dispute, without notice to the other party.

5. In section 5(a), check the box that describes what you are afraid of, and in section 5(b) explain why you are afraid. Please be as specific as possible.
6. In section 6, describe what the respondent did or is doing to stalk or sexually assault you. For stalking, describe what the respondent is doing or has been doing that frightens you and how respondent's conduct qualifies as "repeated acts of nonconsensual contact". For both sexual assault and stalking, include dates and places. If minors are involved, do not write their names, only initials and dates of birth. **IMPORTANT:** Consult the definition of stalking on page 5, or the definition of sexual assault on page 6 to see whether your specific situation qualifies for a protective order.

### STALKING

**"Nonconsensual contact"** means any contact with you without your consent. Some examples are:

- a. following or appearing within your sight,
- b. approaching or confronting you in a public place or on private property,
- c. appearing at your workplace or residence,
- d. entering onto or remaining on property that you own, lease, or occupy,
- e. contacting you by telephone,
- f. sending mail or electronic communications to you,
- g. placing an object on, or delivering an object to, property that you own, lease, or occupy.

AS 11.41.270(b)(3)

### SEXUAL ASSAULT

**"Sexual assault"** means engaged in a sexual act without your consent, and it includes some sexual acts involving minors. Some general examples are:

- a. you did not consent to the sexual act,
- b. you were not capable of giving consent because you were incapacitated,
- c. you were not capable of giving consent because you were unaware the sexual act was taking place, or due to mental disability,
- d. respondent's attempted sexual act resulted in your serious physical injury,
- e. respondent was your legal guardian,
- f. respondent was an adult and you were a minor,
- g. you and respondent were both minors.

AS 11.41.410 - .450

7. In section 7, check the boxes and fill in the blanks for all the provisions you want the judge to include in your protective order.
8. In section 8, you must list all civil or criminal lawsuits that you know of involving you and the respondent, individually or together, in Alaska or another state. You and the respondent have the responsibility of telling the court of any lawsuits that involve either of you that arise while a petition for protective order is pending and while a protective order is in effect.

9. In section 9, fill in as much of this information about the respondent as you know. The court needs respondent's mailing address and telephone numbers so the court can send paperwork to him/her and notify him/her about hearings.
10. In section 10, if possible, you need to 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 it is all right for the respondent to know (since the respondent will get a copy of your petition).

If there is no phone number or address that can safely be 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. Do not sign the petition until you are in front of a notary public or a court clerk. A court clerk can notarize the petition for you at no charge.

#### How To Fill Out Forms For Serving the Order on Respondent

You must fill out the following two forms so the court's order and other paperwork can be served on (delivered to) the respondent by a peace officer:

##### *DV-125, Request For Service of Protective Order Documents*

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

##### *DV-127, Law Enforcement Information Sheet*

Fill in everything on this form. This is a confidential document which will be given to the police 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 personnel.

The police need this information in order to find the respondent and in order to be as safe as possible when they contact the respondent. So, 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.

Alaska Statutes

**AS 11.41.270 Stalking in the Second Degree.**

- (a) A person commits the crime of stalking in the second degree if the person knowingly engages in a course of conduct that recklessly places another person in fear of death or physical injury, or in fear of the death or physical injury of a family member.
  
- (b) In this section,
  - (1) "course of conduct" means repeated acts of nonconsensual contact involving the victim or a family member;
  
  - (2) "family member" means a
    - (A) spouse, child, grandchild, parent, grandparent, sibling, uncle, aunt, nephew, or niece, of the victim, whether related by blood, marriage, or adoption;
  
    - (B) person who lives, or has previously lived, in a spousal relationship with the victim;
  
    - (C) person who lives in the same household as the victim; or
  
    - (D) person who is a former spouse of the victim or is or has been in a dating, courtship, or engagement relationship with the victim;
  
  - (3) "nonconsensual contact" means any contact with another person that is initiated or continued without that person's consent, that is beyond the scope of the consent provided by that person, or that is in disregard of that person's expressed desire that the contact be avoided or discontinued; "nonconsensual contact" includes
    - (A) following or appearing within the sight of that person;
  
    - (B) approaching or confronting that person in a public place or on private property;
  
    - (C) appearing at the workplace or residence of that person;
  
    - (D) entering onto or remaining on property owned, leased, or occupied by that person;
  
    - (E) contacting that person by telephone;
  
    - (F) sending mail or electronic communications to that person;

(G) placing an object on, or delivering an object to, property owned, leased, or occupied by that person;

(4) "victim" means a person who is the target of a course of conduct.

(c) Stalking in the second degree is a class A misdemeanor.

**Sexual assault crimes described in AS 11.41.410-.450**

“Sexual contact” and “sexual penetration” mean any of the following:

knowingly touching, directly or through clothing, the victim’s genitals, anus, or female breast; or  
knowingly causing the victim to touch, directly or through clothing, the defendant’s or victim’s genitals, anus or female breast; or  
genital intercourse, cunnilingus, fellatio, anal intercourse; or  
an intrusion, however slight, of an object or any part of a person’s body into the genital or anal opening of another person’s body.

AS 11.81.900(58)(A) and (B)

**There are at least five types of sex crimes covered by the sexual assault protective order (AS 11.41.410-.450)**

1. You did not consent to the sexual act.
2. You were not capable of giving consent due to mental disability, because you were unaware of the sexual act, or because you were incapacitated.
3. Respondent worked for the Department of Corrections or was your legal guardian.
4. Petitioner was a minor, and the respondent was an adult.
5. Petitioner and respondent were both minors.