

DEPARTMENT OF PUBLIC SAFETY OPERATING PROCEDURES MANUAL		
CHAPTER 244	PROTECTIVE ORDERS	
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	Authorities: Click here to enter text.	
	Applicability: All Department Employees	
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244.100 INTRODUCTION

This chapter establishes protocol for the handling of Protective Orders.

Protective Orders in Alaska are Court Orders that seek to safeguard individuals from domestic violence, harassment, stalking, and other forms of abuse. These Court Orders are designed to provide immediate and long-term protection to victims by imposing restrictions on the behavior of the respondent, ensuring the safety and well-being of the petitioner and their household members. Alaska's statutory framework emphasizes the importance of protective orders in addressing the cyclical and pervasive nature of intimate partner violence, while also balancing procedural fairness for respondents.

244.300 DOMESTIC VIOLENCE PROTECTIVE ORDERS (DVPO)

A. Protective orders issued by the Alaska Court System. Protective orders issued by the Alaska Court System in cases of domestic violence under AS 18.66.100-180 can take three forms:

1. Long Term Protective Order. Issued after notice to the respondent and a hearing. The provision of the order prohibiting the respondent from threatening to commit or committing domestic violence, stalking or harassment remains effective until further order of the court, other provisions remain in effect for one (1) year unless earlier dissolved by the court. [Ref AS 18.66.100]
2. Ex Parte Protective Order. An ex parte protective order can be issued without the respondent being notified or present at a hearing. Ex parte protective orders expire after twenty (20) days. [Ref AS 18.66.110(a)]
3. Emergency Protective Order. The officer will comply with the provisions set forth in AS 18.65.510-520 and AS 18.66.100 (b) respective offering a victim an emergency protective order. The officer, with consent of the victim, will request an emergency protective order on behalf of the victim following the provisions described in AS 18.66.100 (b). Emergency protective orders expire after seventy-two (72) hours unless dissolved earlier by the court.

B. Protective orders from other jurisdictions. Valid protective orders from other jurisdictions shall be enforced in the same manner as orders issued by Alaska Courts. [Ref AS 18.66.140 and 18 USC 2265 (Full Faith and Credit).

1. The officer needs to confirm that the order on its face appears to be valid. Key elements of a valid order are as follows:

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- a. The order has not expired and has been served on the respondent. Ex-parte orders are entitled to Full Faith and Credit if the respondent has notice of the order and will have an opportunity to be heard (i.e. the order has been served).
- b. The order contains the name of the issuing court, and the order was signed by or on behalf of a judicial officer (including tribal courts).
- c. For all elements see the [Full Faith and Credit Guide](#).
2. Charges for violation of a protective order from another jurisdiction under AS 11.56.740, are valid if the provisions in the order closely correspond to the provisions in AS 18.66.100(c)(1-7).
3. Orders from other jurisdictions may be filed with the Alaska Court System, but filing is not required for enforcement.
4. If the petitioner chooses not to file the order with the State of Alaska Court, the order may be placed into APSIN as a locate.
5. Tribal courts may enter into an Information Exchange Agreement with DPS to have their tribal court protective orders fully entered into APSIN.
6. Officers shall treat the order from another jurisdiction in the same manner as they would an Alaska order. Thus, for example, if the order allows the petitioner to retrieve clothing or property from the respondent the officer may provide the same type of civil standby or other assistance that we would if an Alaska court issued the order.
7. If an officer determines that an otherwise valid protective order from another jurisdiction cannot be enforced because the respondent has not been served with the order, the officer should take steps to inform the respondent of the order and make a reasonable effort to serve the order. The officer will then properly document the service of the order.
8. Full Faith and Credit provision is silent on the issue of child custody and child support orders. Officers shall contact DPS legal counsel regarding the enforcement of child custody and support provisions contained in orders from other jurisdictions. If an officer is unable to reach the DPS legal counsel, they should contact their local on-call District Attorney.
9. Alaska law authorizes the enforcement of a proximity or “stay away” order; however, Alaska law does not authorize the enforcement of board proximity (banishment) orders. Officers shall contact their supervisor and consult with Detachment Command if the officer has questions about the enforceability of a proximity order. Command staff will consult with DPS legal counsel when necessary. For more information see the [AG Opinion re Tribal Banishment Order Enforcement](#).
10. In order to qualify for Full Faith and Credit, a military protective order must be from a military tribunal (AS 18.66.140). A military order issued by a military commander does not qualify for Full Faith and Credit.

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11. Mutual protective orders are only enforceable if the respondent cross-filed a written pleading for an order and the issuing court made a specific finding that each party had abused each other.

244.310 VIOLATIONS BASED UPON DOMESTIC VIOLENCE PROTECTIVE ORDER

Several criminal violations are based upon the violation of conditions set out in domestic violence protective orders. These include:

1. Violations of provisions listed in AS 18.66.100(c)(1-7) for protective orders issued under AS 18.66.100-180 are a separate offense under AS 11.56.740(a)(1). The provisions listed in AS 18.66.100(c)(1-7) are:
 - a. Prohibit the respondent from threatening to commit or committing domestic violence, stalking, or harassment;
 - b. Prohibit the respondent from telephoning, contacting or otherwise communicating directly or indirectly with the petitioner;
 - c. Remove and exclude the respondent from the petitioner's residence, regardless of ownership of the residence;
 - d. Direct the respondent to stay away from the residence, school, place of employment of the petitioner, or any other specified place frequented by the petitioner or any household member;
 - e. Prohibit the respondent from entering a propelled vehicle possessed or occupied by the petitioner;
 - f. Prohibit the respondent from using or possessing a deadly weapon if the court finds the respondent was in the actual possession of or used a weapon during the commission of domestic violence; or
 - g. Direct the respondent to surrender any firearm owned or possessed by the respondent if the court finds that the respondent was in the actual possession of or used a firearm during the commission of the domestic violence.
2. Criminal Trespass in the Second Degree – AS 11.46.330;
3. Misconduct Involving Weapons in the Third Degree – AS 11.61.200(a)(8).
4. Custodial Interference AS 11.41.320-330
5. Burglary AS 11.46.300

244.320 SERVICE OF DOMESTIC VIOLENCE PROTECTIVE ORDERS

A. *Domestic violence protective order service is a department priority.* Service of domestic violence protective orders has high priority. Until personal notice has been served on an offender, the order does not provide protection or assistance to the victim. Therefore, once the court has issued a domestic violence order, every reasonable effort will be made to serve

the order on the offender at the earliest possible opportunity. Per AS 18.66.160 the order shall be “promptly served and executed.”

B. *Officer to be familiar with domestic violence protective order before service.* Before attempting service, the officer must read the domestic violence protective order thoroughly to determine what situation may be confronted while making service, and to find out if the officer is required to do anything in addition to making service. The officer should also review the confidential law enforcement information sheet prior to service of the order. The officer should also review the petition for the order. The confidential information sheet is not provided to the respondent. Copies of the order, and petition, will be entered into ARMS. The confidential information sheet will NOT be attached in ARMS.

C. *Time and place of service.* Domestic violence protective orders can be served at any time of day and any place the person to be served can be located. However, the order is not a search warrant, so unauthorized entries or intrusions to effect service shall not be made. If a situation is encountered where a search warrant would be needed to enter a residence or vehicle, and the officer is positive the person is inside, special permission can be obtained from the judge to force entry. An example of when an officer will request this additional court order to enter a residence is if the order requires the respondent to leave the residence they're in.

D. *Person served must be conscious.* The person being served must be conscious, but need not be sober. If the person is not sober or does not appear to understand an explanation of the order, these observations shall be noted on the back of the "return" for the court's information at future hearings.

E. *Officer to explain order to person served.* Whenever reasonable, the officer shall explain the domestic violence protective order to the person being served, and explain in detail the section where the judge has ordered the person to do or not do something. The officer shall not just hand the writ to the person and leave, unless the person is so uncooperative that attempts to explain are pointless.

F. *Record service and written documentation.* The officer shall record the service of the order and maintain the recording for the duration of the order at a minimum. The officer shall document in ARMS all attempts for service. If the officer is unable to serve the order by the end of their shift. The officer will notify their shift supervisor and the service of the order will be assigned to the next shift.

G. *If the officer/department is unable to serve the order within 24 hours of receipt by DPS, the officer will make reasonable attempts to contact the petitioner.*

H. *Writs of Assistance.* The officer shall comply with all writs of assistance in a timely manner. See ARMS instructions regarding service and attempt of service for writs for how to properly document.

244.330 ADMINISTRATION OF DOMESTIC VIOLENCE PROTECTIVE ORDERS

A. *Protective Orders to be immediately entered into central registry.* All protective orders, modified orders or dismissal orders delivered to the department are to be immediately entered into the central registry. [Ref AS 18.65.540]

B. *DPS to notify other law enforcement agencies upon notice of issuance of domestic violence protective order.* When the Department is notified that a domestic violence protective order has been issued, immediate notification of the order must be conveyed to all appropriate law enforcement agencies within the surrounding area. The entry of the order into the central registry fulfills this requirement. (All military police and agents at the military gates have APSIN access.) In rural areas, VPSOs will have access to the central registry in APSIN. In communities without VPSOs, the distribution of the order to surrounding peace officers will be determined based on the known or probable travel of the petitioner or respondent.

C. *Return of Service.* After service of the order, the officer shall complete the required return of service form (DV-125) and provide a copy of the form to the issuing court. If the officer is unable to serve the order, the officer shall complete the required return of service form (DV-125), document on the form the reasons the order was not served and provide a copy of the form to the issuing court.

A copy of the return of service paperwork must be entered into ARMs.

244.340 STALKING AND SEXUAL ASSAULT PROTECTIVE ORDERS

A. *Protective orders issued by the Alaska Court System.* Protective orders issued by the Alaska Court System in cases of stalking or sexual assault that is **not** a crime involving domestic violence under AS 18.65.850-870 can take three forms:

1. **Emergency Protective Order.** A protective order issued on the request of a police officer with the consent of the victim of stalking or sexual assault. Emergency protective orders expire after seventy-two (72) hours unless they are dissolved earlier by the court. An officer can obtain an emergency protective order in person or telephonically from a Judge or Magistrate. The officer must complete a CIV-755 form provided by the court. If the order is issued telephonically, the Judge and the officer will each fill out a CIV-755. The Judge will authorize the officer to sign the Judge's name to the order. After the order has been issued the officer will serve the petitioner and the respondent, file the order with the court by the end of the next day, and see that the protective order is entered into the registry of protective orders. [Ref AS 18.65.855(b)]
2. **Ex Parte Protective Order.** An ex parte protective order can be requested by a victim/petitioner and issued without the respondent being notified or present at a hearing. Ex parte protective orders expire after twenty (20) days, unless earlier dissolved by a Judge. [Ref AS 18.65.855(a)]
3. **Long Term Protective Order.** Issued after notice to the respondent and a hearing. Provisions of the order prohibiting the respondent from threatening to commit or

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committing stalking or sexual assault stalking remain in effect for six (6) months unless earlier dissolved by the court. [Ref AS 18.65.850]

244.900 DEFINITIONS

Order from another jurisdiction-- is a court order that is issued by a court other than a State of Alaska court. Orders from other jurisdiction include those issued by the courts of other states (such as Washington State) and of political subdivisions within other states (e.g. county courts); tribal governments; the District of Columbia; and of a commonwealth, territory or possession of the United States of America (American Samoa, Guam, Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands). See exception for Military protective orders in paragraph 212.310 B7.

Full Faith and Credit -- Full Faith and Credit is a term which derives from the U.S. Constitution and the federal Violence Against Women Act that, in the context of domestic violence protective orders, means that law enforcement officers are to enforce protective orders issued by another jurisdiction as though they were issued by their own jurisdiction.

Protective order -- includes any injunction or other order issued for the purpose of preventing violent or threatening acts or harassment against, or contact or communications with or physical proximity to, another person, including temporary and final orders issued by civil and criminal courts (other than support or child custody orders) [Ref 18 USC 2265]. This includes provisions contained in divorce or dissolution orders or decrees.

RESOURCES

[Information for Victims of Domestic Violence Booklet](#) – also available in several languages

[Full Faith and Credit Guide](#)

[Re: AG Opinion re Tribal Banishment Order Enforcement](#)