Chapter One

INTRODUCTION

Alaska guarantees Alaskan women the legal right to be treated equally. However, women often face problems exercising this right: they may have difficulty obtaining work because of their sex; they may be unable to collect child or spousal support from former partners; they may not obtain a fair property settlement when leaving a non-marital relationship; or they may face discrimination or harassment in their workplace.

This handbook outlines legal rights affecting women in various areas. Be aware, however, that the law can change and is sometimes difficult to interpret. If you have a legal problem, try to consult an attorney or government agency.

SOURCES OF YOUR RIGHTS

The law concerning your rights is a combination of:

- the Constitutions of the United States and the State of Alaska;
- statutes passed by federal or state legislatures;
- regulations passed by government agencies;
- court rules enacted by the courts; and
- federal and state case law.

Examples of the above include:

- Title VII of the Civil Rights Act of 1964, a federal law prohibiting discrimination in employment.
- The 1972 amendment to the Alaska Constitution that includes an equal rights provision that reads: “No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin.”
- Regulations passed by the Department of Health and Social Services regulating day care facilities.
- Alaska Civil Rule 90.3, which establishes standard rules and formulas for child support in divorce and child custody cases.

CONSTITUTIONS, STATUTES, RULES, REGULATIONS, AND COURT DECISIONS

Courts interpret federal and state laws, regulations, and constitutions in individual cases. Much law is set by the written opinions of judges at the Supreme Court and Court of Appeals levels of the legal system. The decisions or cases are published in books called reporters. You can check statutes, rules, regulations, constitutional provisions, or cases yourself if there is a state law library in your area. Ask the librarian for assistance.

Relevant statutes, regulations, rules, and cases are cited throughout this book. The following abbreviations are used:

AS-  Alaska Statutes
AAC-  Alaska Administrative Code
The numbers before and after the abbreviations refer to chapters and sections of the laws. The citation for cases gives the names of the parties, volume, reporter, page number, state, and year of decision, as in *Smith v. Jones*, 830 P.2d 437 (Alaska 1992).

CIVIL AND CRIMINAL LAW

The law is divided into two broad areas:

- civil law, where persons or institutions sue each other (such as divorce/child custody actions, domestic violence protective orders, and personal injury cases); and
- criminal law, where the government prosecutes someone for committing a crime.

Civil cases result in damages and/or a determination of each party’s rights. Criminal cases result in fines, probation, and/or jail sentences. Some actions are quasi civil and criminal such as child-in-need-of-aid proceedings.

FEDERAL AND STATE LAW

Federal law involves constitutional guarantees and statutes. Federal statutes do not usually govern family life. The federal government generally leaves the areas of inheritance, divorce, parent and child relationships, and juvenile delinquency to the state.

State laws vary from state to state. This is particularly true concerning marriage and family life. Do not assume that the laws of another state apply in Alaska or that Alaska laws apply in other states.

TRIBAL LAW AND COURTS

Alaska Native tribes have inherent legal rights and powers. For example, the federal Indian Child Welfare Act [25 U.S.C. §1901 et seq.] limits the State’s intervention and powers in cases involving the placement of Alaska Native children. Tribes also have power to decide issues such as child custody, rules of inheritance for members, and determination of tribal status. [*John v. Baker*, 982 P.3d 738 (Alaska 1999); *Matter of F.P.*, 843 P.2d 1214 (Alaska 1992).] Tribal courts process for resolving disputes can generally be characterized as less adversarial than those of the states and federal courts. Tribal courts and councils make decisions based on traditional law, local ordinances, and federal law, but can also apply state law. [David S. Case and David A. Voluck, Alaska Natives and American Laws, 3rd Ed. 2002, p.435].

The authority of Alaska tribes and tribal courts to decide issues involving non-tribal members and property issues is unsettled. Legal disputes involving Alaska Natives or their lands may be subject to tribal custom, law, or rules that apply with the same force and effect as state or federal laws.

GOING TO COURT

Where possible, it is advisable to have the assistance of an attorney if you are sued or wish to sue.
someone. [See Chapter Two for more information.]

The Alaska Court System has many handbooks on rights, remedies, and use of the court system that you might find helpful. The handbooks are free and available at any state court. Some of the handbooks that are available include:

- What is a Guardian Ad Litem?
- Child in Need of Aid Proceedings
- Mental Health Commitments
- Misdemeanor Arraignments
- Depositing Your Will
- Court Administered Child Custody/Visitation Investigations
- Legal Resources Information Pamphlet
- Understanding Alaska’s Domestic Violence Protective Order Process
- Teaching Kids About Courts: Educational programs for students sponsored by the Alaska Court System

**FAMILY LAW SELP-HELP CENTER**

The Family Law Self-Help Center (FLSHC) provides valuable information and assistance on how to navigate the legal system for the general public on a variety of topics including adoption, housing, small claims, guardianship, divorce, dissolution, child custody, and child support. Sample forms, instructions on how to complete the forms and informative videos are all available at http://www.courts.alaska.gov/representing-yourself.htm.