

IS THE VICTIM A “FAMILY OR HOUSEHOLD MEMBER?”

“Family or household members” include spouses, former spouses, parents, children, stepchildren, and other persons related by blood or by present or prior marriage, persons who share or formerly shared a common dwelling, persons who have or allegedly have a child in common, persons who share or allegedly share a blood relationship through a child, persons who have or have had a dating or engagement relationship, persons with disabilities and their personal assistants, and caregivers.

For purposes of this paragraph, neither a casual acquaintanceship nor ordinary fraternization between 2 individuals in business or social contexts shall be deemed to constitute a dating relationship.

725 Ill. Comp. Stat. Ann. 5/112A-3

The Domestic Violence Act is to be liberally construed. 750 ILCS 60/102.

Because the Domestic Violence Act provides for a liberal construction of the term “family member,” courts should recognize brothers and parents of two formerly married people as included in the term “family member” or “persons related by * * * prior marriage.”

Moreover, as applied in this case, inclusion of siblings and parents of formerly married spouses as “family members” promotes the Domestic Violence Act's stated purpose of eliminating intrafamily violence.

Benjamin v. McKinnon, 379 Ill. App. 3d 1013, 1022, 887 N.E.2d 14, 22 (2008)

“Related by marriage” is synonymous with “related by affinity.” See, e.g., Merriam–Webster’s Collegiate Dictionary 1050 (11th ed.2003) (“relative * * * a person connected with another by blood or affinity”). There are degrees of affinity. “Direct affinity” is “[t]he relationship of a spouse to the other spouse’s blood relatives,” such as “a wife and her husband’s brother.” Black’s Law Dictionary 63 (8th ed.2004). “Collateral affinity” is “[t]he relationship of a spouse’s relatives to the other spouse’s blood relatives,” such as a “wife’s brother and her husband’s sister.” Black’s Law Dictionary 63 (8th ed.2004).

Benjamin v. McKinnon, 379 Ill. App. 3d 1013, 1021, 887 N.E.2d 14, 21 (2008)

There is no express definition for “dating relationship.” However, courts have interpreted a “dating relationship” to be a “serious courtship.” Alison C. v. Westcott, 343 Ill.App.3d 648, 653, 278 Ill.Dec. 429, 798 N.E.2d 813 (2003). “[S]erious courtship” has been further interpreted to mean “an established relationship with a significant romantic focus.”

People v. Young, 362 Ill.App.3d 843, 851, 298 Ill.Dec. 712, 840 N.E.2d 825 (2005)

The defendant contended that the trial court erred in granting an order of protection because he and the victim were not “related by blood or marriage” as required by the statute. He argues that, because they are married to sisters, they are not related by consanguinity or affinity and should, therefore, not be considered to be related by marriage.

The Missouri Court of Appeals found that they WERE family members.

Pratt v. Lasley, 213 S.W.3d 159, 159–60 (Mo. Ct. App. 2007)

This case was cited as persuasive in Benjamin v. McKinnon, 379 Ill. App. 3d 1013, 1021, 887 N.E.2d 14, 21 (2008)