Even when a defendant’s conduct is a substantial factor in causing the [physical injury] [serious physical injury] [death], the defendant is not responsible for that result if it was primarily caused by an abnormal, unforeseeable event or condition or by the abnormal, unforeseeable conduct of a person other than the defendant. In these circumstances, the other event, condition, or conduct is called a “superseding” or “intervening” cause.

Once the defendant has set the events in motion, however, no other event, condition, or conduct of another person can be a “superseding” cause or “intervening” cause if

1. the defendant’s conduct created or enhanced the risk that someone would suffer the type of injury actually suffered by the alleged victim; and
2. the contributing event, condition, or conduct was either a normal reaction to the defendant’s conduct or was a reasonably foreseeable consequence of the defendant’s conduct.

A consequence is reasonably foreseeable if

1. the general type of harm was foreseeable, and
2. the actual harm falls within the scope of risk created by the defendant’s conduct and is not too remote or accidental in occurrence.

If you find there was a superseding or intervening cause, then the defendant is excused from responsibility.

# USE NOTE

This instruction should only be given after Pattern Instruction 1.25.1 – Causation.

This instruction is drawn from Johnson v. State, 224 P.3d 105 (Alaska 2010), andState v. Malone, 819 P.2d 34, 37 (Alaska App. 1991).