

ORDER OF PROTECTION

What is an Order of Protection

An order of protection is a civil court order that is designed to provide a victim protection from an abuser or harasser. Every state has specific statutory guidelines for what must be included to obtain an order of protection. Most major cities/counties have the forms available on their state court website.

There are different types of protective orders. The most common types are protective orders when an individual needs protection from a family member, spouse or former spouse, roommate or former roommate or a person that you were previously or are currently romantically involved with.

Once the order of protection is in effect if the defendant initiates contact, the defendant could be arrested for violating the protective order.

Who Can Obtain an Order of Protection

To obtain an order of protection the person you are naming must have endangered, threatened, intimidated, assaulted, harmed or harassed you. The actions that qualify for a protective order are normally enumerated in the state statute. Common actions include:

Aggravated assault resulting in serious physical injury or involving the discharge, dangerous crime against a child, use or threatening use of a deadly weapon or dangerous instrument; sexual assault; sexual conduct; child abuse; kidnapping; involving or using minors in drug offense; or any act in which the defendant:

- endangers;
- threatens or intimidates;
- assaults;
- criminally trespasses or criminally damages;
- disorderly conduct or stalks;
- uses a telephone to terrify, intimidate, threaten, harass, annoy, or offend; or
- harasses

the victim.

How to Obtain an Order of Protection

To obtain an Order or Protection you must obtain or draft the paperwork and file a Petition for an Order of Protection at the proper courthouse. Normally, there is no fee to file this paperwork.

The paperwork is available online in most states and is generally a fill in the blank form.

Completing the Paperwork

If your state does not offer the paperwork online, you will be able to access the paperwork directly from the courthouse. The paperwork will include the Petition which will need to be filled out in its entirety and either notarized or sworn before the court. On the Petition you will state specific acts and examples of domestic violence in as much detail as you can. You will also need to name each individual you want to be included as a protected person on the Petition, including minors.

You should come as prepared as possible to describe all incidents that would qualify you or your minor child(ren) for an order of protection. If you need protection from multiple persons, you must submit a separate form for each person.

Many courts have staff available to assist you in filling out the paperwork.

Once the paperwork is complete you must appear before the judge who will actually give you the legal order. The Order of Protection is what puts legal significance to your petition. The petition standing alone has no independent significance. The judge will only issue the order after testimony is taken regarding the alleged acts and finds sufficient grounds exist for an Order of Protection.

After you receive the signed order you MUST serve that along with the Petition on the defendant. The order of protection is NOT in effect until it is served in accordance with the law on the defendant.

Service of Petition and Order

Once the Order of Protection is signed, you must give legal notice to the defendant. This is accomplished normally through a process server who services a copy of the Petition for the Order of Protection and a copy of the signed Order of Protection on the defendant. It is the plaintiff's responsibility to initiate service on the defendant and the papers can't be served by you. You must use law enforcement or a registered process server. In many counties there are no fees to serve an order of protection.

After service of process is complete the process server or law enforcement agent will provide you with an affidavit of service. This affidavit makes a sworn statement that the documents were provided to the defendant. You will then be responsible to file the affidavit with the Court to prove that service is complete. Once the defendant is served

the Order is valid for one year unless the defended files further paperwork with the court.