



Filing for a Protection Order: Frequently Asked Questions

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This brochure only provides you with some general information regarding how to file for a protection order. Contact an attorney for legal advice and more complete information.

For persons with disabilities, this brochure will be made available in other formats upon request. Call the Office of the State Court Administrator, 402-471-3730.

What is a protection order?

An order from a judge to protect people from abuse or harassment.

What does a protection order cost?

There are no costs unless a judge decides that you lied or asked for the protection order for inappropriate reasons.

What types of protection orders are there?

A Domestic Abuse Protection Order is for people who have been in close relationships (relatives, spouses or former spouses, people who have lived or are living together, etc). It is granted because someone attempted, threatened, caused bodily injury, or intimidated the other person by credible threat, or engaged in sexual contact or sexual penetration without consent.

The second type of protection order is a Harassment Protection Order. It does not depend upon relationships, but requires a number of telephone or personal contacts that seriously terrify, threaten, or intimidate the victim and serve no legitimate purpose.

Note: Neither type of protection order is for the purpose of protecting property.

Can I get custody of my children?

If you qualify for a Domestic Abuse Protection Order, you may get an order for custody, which may last up to 90 days. Be sure to include information which will tell the judge how your children have been affected by the abuse. Temporary child custody cannot be granted in a Harassment Protection Order.

How do I get the forms for a protection order?

You need to talk to the district court clerk or go online at www.supremecourt.ne.gov/self-help/pos.shtml.

Here you can also access a guide to filling out the forms. Additionally, there is a link that you can use to access a website that will walk through how to fill out the forms step by step. This program is known as A2J. For additional assistance please contact the local domestic violence or victim witness program in your area.

What do I do with the forms?

Complete the forms and give them to the district court clerk. The clerk cannot give you legal advice, if you need additional assistance please see "The Protection Order Form Guide". Once

the forms are completed the clerk gives the forms to the judge.

What does the judge do with the forms?

The judge may sign the protection order “ex parte” which means without a prior hearing and before the other party receives notice. . If the judge grants the order “ex parte”, the other party has 5 days to ask for a hearing to come to court and tell the judge his or her side. The judge may choose not to grant an “ex parte” order and instead require the parties to come to court before deciding whether to grant or deny a protection order (Show Cause Order). The judge may also choose to deny the protection order without a hearing if the petition does not qualify for the requested order.

What happens after the judge signs the protection order?

The order is not in effect until a sheriff or deputy gives a copy of it to the person from whom you are requesting protection. That person will be given a copy of all of the papers that you have filled out. However, you may request a confidential address if you are afraid to reveal it. The restrained person can ask the judge in writing for a hearing so that both sides can tell the judge their side of the story. You must appear for this hearing. If you do not appear, the judge will likely dismiss the protection order. If the judge sets a hearing, the clerk will let you know the time and date. It is important that the clerk know how to get in touch with you. Domestic abuse prevention agencies or Victim Witness agencies can help you plan to remain safe while making sure that the clerk can find you. Please contact your local program if you need assistance with this.

How long does a protection order last?

An “ex parte” protection order lasts until you go to court. At court, the judge decides if the protection order will be canceled or continued for one year. If the other party never asks for a hearing, then the protection order remains in effect for a year.

Can I request a hearing?

If you requested a domestic abuse protection order and the ex parte was granted, you, as the petitioner, can request a hearing. If you wish to have a hearing, please contact the clerk of the district court in the county where you filed your petition. If your order does not prevent the restrained person from owning or buying a firearm, and you would like for a federal law to prohibit this person from owning or buying a gun, a hearing is required. If this is not the case, you are NOT required to request a hearing.

Do I need to bring anything to court?

No, it is not required, but you should bring any proof of abuse or harassment with you, such as

- *Photographs of injuries (and if possible the person who took the photographs).*
- *Threatening notes, email, phone messages.*
- *A witness who saw or overheard the abuse, even though in some courts only the parties are allowed to testify.*

It may be helpful to have someone from a local domestic abuse or victim witness program come with you for support, although that person cannot act as your lawyer, unless licensed as such. Although not required, you may also benefit by hiring a lawyer.

What do I do after the court hearing?

If you are given a protection order, you should carry a copy of the order with you at all times. This protection order is good in every state, so take it with you if you travel or move to another state.

What if the protection order is not obeyed?

If the person violates the protection order, call the police. Per state law, this person will be arrested and jailed for the violation.

What if I move out of the county where the protection order was issued?

Contact law enforcement in your new place of residence and advise them that you have an order.

What should I do if I feel that I need immediate help?

Depending on how threatened you feel, contact your local domestic violence program and/or victim witness program or dial 911 for an emergency.

Other facts:

- You can get a protection order even if you are not a U.S. citizen.
- You are free to change your mind and ask the court to dismiss the protection order. However, the judge decides whether it will be dismissed to make sure that you were not forced to change your mind. Until the judge dismisses the order, it is still valid.
- If you do not speak English, ask for a court interpreter before any hearing. You may wish to bring an adult who is bilingual to assist with interpretation outside of the hearing. The court can supply an interpreter only for hearings, not to help you fill out the forms.
- You are not required to have a lawyer but having one may be a good idea, especially if you have children and you expect the other party to seek custody. If the other party has a lawyer and you do not, you may be at a disadvantage.