

WHAT HAPPENS IF THE ORDER FOR PROTECTION IS VIOLATED?

If the abuser harms you, threatens you, or comes to your home, he or she is in violation of the court order. You should call your police or sheriff right away.

They will have received a copy of the Order for Protection from the court administrator. A peace officer shall arrest, without a warrant, and take into custody a person whom the peace officer has probable cause to believe has violated an order restraining the person or excluding the person from the residence or the petitioner's work place. Violating the OFP is a criminal offense.

WHAT HAPPENS IF YOU INVITE THE ABUSER BACK INTO YOUR HOME?

If you get an Order for Protection, it is not made invalid because you let the abuser into your home. The purpose of the OFP is to keep the abuser away from you because you fear you may be harmed.

However, you should know that the abuser may still be held in violation of the court order and so still could be fined, jailed, or both. Also, you should know you put yourself in an extremely vulnerable position since the law enforcement authorities may not take you seriously later on when you really need their help.

TIPS ON COURTROOM BEHAVIOR

1. You must be on time for your hearing. Check with the court administrator for the location of the hearing.
2. A neat appearance in court is important. It shows respect for the court.
3. It is not a good idea to bring your children to the hearing. Make arrangements for someone to look after your children while you are at the hearing. If you do bring them, the judge may not permit them in the courtroom.
4. Review your application and affidavit before the hearing. Be familiar with your affidavit. Stick to the facts - don't ramble when offering evidence to support your request. Tell the truth.
5. The judge will ask you questions. If you don't understand a question, say so. Don't answer until you fully understand the question.
6. If you don't know an answer, say so. Do not be afraid to admit that you don't know something.
7. Take your time when answering questions. Give the question as much thought as you need to understand it and formulate your answer. Explain your answer if needed.
8. When the judge is asking you questions, try not to look to your advocate or attorney for help. If you appear to require assistance with your testimony, it could jeopardize your credibility and sincerity.
9. Be especially respectful of the judge. Always address the judge as "Your Honor". Never argue with the judge, or the other side. Stay calm. Do not lose your temper. This may cause the judge to lose respect for you.
10. If the matter becomes disputed and you should want to obtain an attorney, ask the judge for a Continuance of the hearing to allow you time to find an attorney.

This brochure is provided by the Office of
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MINNESOTA'S ORDER FOR PROTECTION



A Guide For Victims of Domestic Violence

Provided by the Office of

**Ron
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SCOTT COUNTY ATTORNEY

WHAT IS AN ORDER FOR PROTECTION?

If a past or present member of your household has threatened to hurt you, or has actually done so, you can apply for an Order for Protection.

An Order for Protection is issued by the District Court to protect a person from abuse by a family or household member.

Abuse includes:

- ❖ physical harm
- ❖ threats of imminent physical harm
- ❖ criminal sexual misconduct against a minor or another household member by an adult family or household member

Family or household member includes:

- ❖ spouses and ex-spouses
- ❖ parents and children
- ❖ persons related by blood
- ❖ persons who are or have resided together
- ❖ persons who have a child in common regardless of whether or not they have been married or lived together

The relief provided by the Order for Protection may include:

- ❖ restraining the abuser from committing any acts of abuse on you or other members of your household
- ❖ excluding the abuser from your residence and workplace
- ❖ awarding you temporary custody of children and establishing temporary visitation and support

Under the court's discretion, other relief may be ordered if it is seen by the court as necessary for your safety, or for the safety of others in your household.

An Order for Protection (OFP) can be granted for up to one year. You do not have to commence a divorce action in order to get an OFP.

HOW DO YOU GET AN ORDER FOR PROTECTION?

You should go to the court administrator's office in your county courthouse or to a domestic abuse shelter. At either place, people are available to help you fill out a Petition (or application) for an Order for Protection.

You do not need an attorney to do this.

There is no filing fee for domestic abuse orders for protection. The 1991 Legislature enacted a law waiving the court filing fee for a petitioner who seeks a Domestic Abuse Act order for protection.

Next, a date for a court hearing will be set. It won't be more than 14 days from the day you file.

If you are in immediate danger, you can also request an Ex Parte Order for Protection which allows you to get an order immediately. An Ex Parte Order for Protection must be signed by the judge. Once the order is signed, a court hearing will be set for a later date, but not more than seven days later.

After the court has received your petition for an OFP and ordered a hearing, the respondent has to be notified of the hearing date. If you've gotten an Ex Parte Temporary Order, the respondent must be served with a copy of it plus a copy of the Petition and notice of the date set for the hearing. The Ex Parte Temporary Order is not in effect until the respondent is served.

Your sheriff or another local law enforcement officer will serve the respondent with these papers and will remove the respondent from your home if there is an Ex Parte Order requiring it. If the respondent can't be found a notice will be published in the newspaper. That's considered equal to serving the papers to the respondent in person.

WHAT HAPPENS AT THE HEARING?

At the hearing, the court will ask to hear both sides talk about the abuse described in the Petition, and will also hear any other relevant testimony. You have the right to have an attorney present if you wish.

You do not need an attorney for this type of a hearing, but if the other side does have an attorney, you can ask the judge for more time (called a continuance) so you can seek legal counsel too. (See Tips on Courtroom Behavior at the end of this brochure.)

It would be to your benefit to bring evidence such as police reports, medical records, photocopies, witnesses, etc. to support your claim.

You should also prepare a list of specific restrictions or limitations you want placed on the respondent, as part of the OFP.

If the court finds that abuse did occur and that you need further protection, the court will issue to you an Order for Protection. This can be good for up to one year, although the judge may issue it for a shorter period of time.

Within 24 hours, a copy of the Order for Protection will be forwarded to your local law enforcement agency by the court administrator's office. The respondent will be served with the OFP, and will be told that violation of the order could result in a sentence of 90 days in jail, a fine of up to \$700, or both.

You should keep a copy of your protection order with you at all times. It you need assistance from police, show the officer your copy of the order.