



Order of Protection Fact Sheet

Introduction

An order of protection:

- keeps the abuser away from you at your home, job, church, school, your child's school or daycare, or any other address where you want protection
- makes your abuser move out of the house if you are living together
- decides who will have temporary custody of your children and sets up a temporary visitation schedule
- orders your abuser to pay temporary support to you or your children
- stops the abuser from contacting you, although the court may allow specific instances for contact
- orders the abuser to stop harming or harassing you
- helps you get your personal possessions

Domestic Abuse

Domestic abuse means physical harm, bodily injury or assault, or someone making you afraid of physical harm. You do not have to be physically hurt to be the victim of domestic abuse. If someone makes you afraid by threatening that you are going to be hurt or assaulted, that can be considered abuse.

Domestic abuse can also mean any sexual behavior between family members or people in the same house that constitutes a crime (such as rape or sexual contact with a minor—someone who is under 17 years old) in Arkansas.

Eligibility

It is against the law to abuse someone who is a family member or who lives or used to live in the same house.

A household or family member could be a:

- spouse: a husband or wife (currently married or divorced)
- boyfriend or girlfriend (current or past dating relationship)
- parent
- child
- person related by blood within the fourth degree of consanguinity (such as an uncle or grandparent)
- person who lives or used to live in the house (or cohabitate)
- couple who has a child together

Filing

You can go to a circuit clerk in the county in which you reside, where the person who is abusing you lives, or where the abuse happened, to obtain the forms, which are the Petition for Order of Protection and Affidavit. Many domestic violence shelters and some prosecutor's offices also have victim advocates who can assist you with filing your petition and affidavit.

Once you have completed the petition and affidavit, you are ready to file. If you are staying at a shelter, you can go to the county courthouse where the shelter is.

Fees

There is no charge to file an Order of Protection. The clerk will look at the form to make sure you have filled everything out. You do not have to put your physical address on the petition, but the court will need a mailing address.

The Judge May Not Grant Your Order

The judge may have questions about your petition. The judge may also say that you did not give enough information in your petition.

If the judge finds claims of domestic abuse that require immediate protection, the judge can sign an immediate Ex Parte Order of Protection. This is only a temporary order of protection. You will have to show up for a hearing within about 30 days so the judge can decide if you need to have a permanent order of protection and, if you do, how long it should last. You need to attend this hearing.

You have the right to explain to the judge why you need the order of protection. You may have to ask the clerk to set a hearing. The court is required to schedule the hearing within 30 days. If the court refuses to set a hearing, or if it sets a hearing outside the 30 days, this violates the statute and you can request free legal help to get a hearing set.

At the hearing, you can represent yourself, hire an attorney, or apply for free legal help by calling legal services at 1-800-952-9243. You can also ask the court to pay your attorney's fees.

Hearing

At the hearing, you will have a chance to testify. You can also call other witnesses to speak on your behalf. You can call your abuser to the stand and ask questions. You can cross-examine any witnesses that the abuser brings to testify. You can make an opening statement and a closing statement to the judge.



The hearing is your chance to present any evidence about the abuse and why you need an order of protection. If you represent yourself in court, you will have to follow all the rules of civil procedure and evidence at the hearing.

Your Abuser Will Know About It

You will have to let the respondent, or the abuser, know about the hearing. The respondent has the right to be there and explain to the judge why you do not need an order of protection.

You will have to tell the judge why you are afraid of the abuser and why you need to keep the abuser away from you or your child.

When you have the temporary order of protection, take it to the sheriff. The deputy can serve the person listed as the respondent in your order of protection. The deputy will need as much information as you can give them so they can find the abuser and serve the abuser with the court hearing. The sheriff will not charge you for this service.

If your abuser is not served, you should still attend the hearing. You can ask to the judge to extend the ex parte order of protection for 30 days so you can complete service. If the abuser is not served within that 30 days, then the order of protection may be dropped.

Preparing

You should wear your best formal clothes for court. No shorts. When you go, bring:

- witnesses: anyone who has seen the abuse or heard threats made by your abuser
- police reports: kept copies of any police reports of any domestic abuse, which should have been reported to the police as soon as possible
- pictures: taken and kept, preferably in color, if your abuser has inflicted any visible injuries
- medical records: kept copies of any medical records related to your abuse
- financial documents: information about your income and the abuser's income if you are asking for child support
- court records (if you are divorced)

Orders of Protection vs. Restraining Orders vs. No-Contact Orders

You can have an order of protection, restraining order, and no-contact order at the same time and against the same person.

Orders of Protection

If you are a victim of domestic abuse, you need an order of protection. If you have an order of protection, the police can

arrest your abuser if that person violates the order. Violating an order of protection is a class A misdemeanor.

You do not have to pay anything and you do not need an attorney to get an order of protection. Having an attorney can help, but you can file the petition yourself and represent yourself at the hearing.

Restraining Orders

If you are getting a divorce, then you or your attorney might ask the judge to issue a restraining order. This stops one spouse from selling marital property in a divorce, and it also stops one spouse from harassing or bothering the other person.

No-Contact Orders

A criminal court issues a no-contact order. It is done in criminal cases against abusers as a condition of bail release from jail.

Violations

If the person abusing you comes to your house, your job, or any address that you listed in the order of protection, call the police. Tell the police you have an order of protection. They will ask to see a copy of the order. You should have multiple copies of the signed order and one kept with you at all times. (Give copies to your employers and your children's school or daycare.) The police can arrest your abuser for violating an order of protection.

You can also ask the prosecutor to file criminal contempt charges on the abuser. You can also file civil contempt charges on the abuser to have the abuser pay a fine or be placed in jail. You can also ask the court to extend your order of protection.

This fact sheet is a collaboration of the Center for Arkansas Legal Services and Legal Aid of Arkansas, Inc. These nonprofit organizations provide free legal assistance to eligible Arkansans who meet income, asset, and other guidelines. Legal assistance may also include advice and counsel, brief services, or full representation depending on the situation. For more information about civil legal aid in Arkansas, please visit arlegalservices.org. For information specific to Legal Aid of Arkansas, Inc., visit arlegalaid.org. Apply for services online or by calling 1-800-9-LAW-AID (1-800-952-9243).

The information and statements of law in this fact sheet should not be considered legal advice. This fact sheet is provided as a broad guide to help you understand how certain legal matters are handled in general. Courts may interpret the law differently. Before you take action, talk to an attorney and follow his or her advice. Always do what the court tells you to do.

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