



# If someone is hurting, stalking or threatening you, get an Order of Protection

## What Is An Order of Protection?

It is an order signed by a Judge to protect you. It tells your abuser not to hurt, threaten or follow you or your children. You can get an Order of Protection without a lawyer. If your abuser does not obey the order, you can have them arrested.



Has the abuser hit or threatened you? Has someone stalked you, raped you or threatened to rape you? You always have the right to try to get an Order of Protection. You don't have to file within a certain number of days. But it is a good idea to file as soon as you can.

## How does an Order of Protection help?

1. It orders the abuser not to bother you or your children again.
2. It can order the abuser not to contact you or bother you.
3. It can make the abuser move out. **OR** make them pay for other housing for you and your children.
4. It can order the abuser not to hurt or threaten you. It can do this even if they still live with you.
5. It can give you temporary custody of the children.
6. It can order the abuser to pay support money for you and/or the children.



**WARNING!** You are **not safe** just because you have an Order of Protection. After you file for the Order, you may still need a safe place to stay. Keep away from

danger. Need help finding a safe place? Call **1-800-799-7233**. They can find you a safe place no matter where you live.

## Who can you get an Order of Protection against?

The person must have hit or threatened you. They can be:

- Your past or present husband or wife,
- Your child's other parent,
- Someone you have lived with,
- Someone kin to you by blood or marriage or adoption,
- Someone you have dated or had sex with,
- Someone who stalked you, or
- Someone who raped you or threatened to rape you.

## How can I get an Order of Protection?

First, you file papers with the court clerk. You may get a short-term Order of Protection until the court hearing. Then you go to the hearing to ask for a longer Order of Protection.

You can file in the county where the abuse happened. **OR** you can file in the county where your abuser lives. To find out where to file, call Legal Aid at **1-800-238-1443**. **OR** call the police and ask them.

At the court, you will have to fill out a paper called a **petition**. It says why you want the Judge to give you an Order of Protection.

On the paper, tell how you have been hurt or threatened. Try to give the exact dates when it happened. Also, tell exactly what the abuser did.



**Example:** Don't just write, "He got in my face." Write, "He pushed me against the wall. He drew back his fist and said he was going to beat my brains out." After you fill out the paper, give it to the Court Clerk.

**Don't stretch the truth or make things up.** That will hurt your case and could lead to criminal charges against you.

**You don't have to pay any money when you file for an Order of Protection.** After the court hearing, the Judge decides who must pay the court costs and fees. What if the Judge gives you an Order of Protection? Then after the hearing the Judge will order the abuser to pay the costs. What if you drop the charges? Or what if the Judge doesn't give you an Order of Protection? Then **you** will have to pay the court costs and fees.

### Who files if you are under age 18?

Have you been emancipated by a court? If not, your parent or guardian must ask for an Order of Protection for you.

## What happens after I file?

### 1. The Judge signs an Ex Parte Order

The Judge reads your petition. He decides if you need an Order of Protection at once. If so, the Judge signs one right away.



This first order is called an "ex parte" (say "x partay") order. It is a temporary order until the Judge holds a hearing. It orders the abuser to leave you alone. The ex parte order does not cover child support, custody or whether the abuser must move out of the house. That can only be done after a hearing.

### 2. The Clerk gives you the Order and the court date

The Clerk gives you copies of the papers. If the Judge signs the ex parte order, the Clerk will give you a copy. **Keep your ex parte order with you at all times.** You may also want to give a copy to your neighbors, boss and landlord. You should also give a copy to your children's schools or day care.

The Clerk will tell you when to come back for a hearing before the Judge. Write down the date, time and place so you won't miss it.

### 3. The Sheriff tells the abuser about the Order

After the Judge signs the ex parte Order, the Sheriff's Office will find the abuser. When they do, they will read the petition and the Order to the abuser. They will tell him or her when the hearing will be.

What if the abuser hits or threatens you or your children again? Once the abuser knows about the order, you can have them arrested on the spot. "On the spot" means you don't need a warrant.



### 4. The Court holds a hearing on the Order of Protection

**It's important to go to the hearing.** If you don't go, the Judge will dismiss your case. Your ex parte Order will end. And, you will have to pay the court costs and fees.

The Judge understands that you may be scared about the hearing. You can talk for yourself at the hearing. Or you can have a lawyer to talk for you. Does the abuser have a lawyer? Then you can ask the Judge for time to get a lawyer on your side.

## How should I get ready for the hearing?

You must show the Judge that you have been hurt or threatened. Before the hearing, think about questions you might be asked. Be ready to give short, simple, truthful answers. Wear your good clothes to court. Do **not** wear shorts or blue jeans.



Bring to court any proof you have that the abuser hit or threatened you. You can use a doctor's report, a police report or pictures of your injuries. Bring as many witnesses as you can who saw it happen or saw your injuries. Witnesses can also be someone who heard the abuser admit what he did. People you told about what happened usually cannot help you at the hearing.

## The hearing

Do you have trouble speaking or understanding English? Ask the Judge for an interpreter to help you at the hearing. If you need an interpreter, the Judge must make sure you get one.



The Judge may need time to find an interpreter. You may have to get a new court date. Getting a later court date is called getting a **continuance**.

The Judge will ask you what happened. Stick to the facts. Tell the Judge when and where you were hurt or threatened. Say exactly what the other person did. Do **not** talk about trouble with the other person's friends or family.

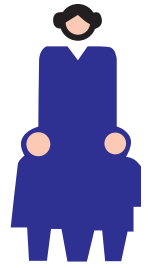
Tell the Judge if the other person has hurt, stalked or threatened you before. Tell the Judge if you had to see a doctor or leave home. Have you taken out a warrant for assault and battery or other criminal charges? Tell the Judge.

The Judge will let the abuser tell his or her side. The Judge will let the abuser ask you questions. Don't let this upset you. The Judge may also let you ask questions.

## What can the Judge decide at the hearing?

- The Judge can **stop** the Order of Protection if you don't show that you were hurt or threatened.
- The Judge can make the Order of Protection **last longer**, up to a year. It orders your abuser not to hurt, threaten, harass or stalk you and your children. The Judge may order your abuser not to contact you or your children at all. If you are divorcing your abuser, the Order can last until the divorce is final.
- The Judge can order the abuser not to contact you, bother you or follow you.
- The Judge can make the other person **move** out or pay for another place for you to live.
- The Judge can give you **temporary**

**custody** of the children. The Judge can also set rules for visits with the abuser. Is it dangerous to leave the children alone with the abuser? The Judge can order another adult to be at the visits.



- Is the abuser the parent of your children? Then the Judge may order the abuser to pay **child support**.
- The Judge can order the abuser to pay your lawyer. If you are married, the Judge can make the abuser pay support for you. You must need support and your spouse must be able to pay.
- The Judge can order the abuser to go for counseling.

## 5. You get the Final Order

The Clerk will mail or hand you a copy of the Judge's Final Order. Be sure to save it.

## Other rights when you call the Police

Even without an Order of Protection, you have certain rights. If you have been hurt, stalked or threatened, call the police at once. They can arrest the abuser on the spot, even if they didn't see it happen. They can arrest as long as they have "probable cause." **Probable cause** means they believe the abuser hurt or threatened you and may do it again. They decide based on what you and other witnesses say and what they see. They can also remove weapons from the home.

Were you hurt by someone you have lived with or had children with? **OR** by someone who stalked you, raped you or threatened to rape you? Then when the police come they should always:

1. Offer to take you to get an arrest warrant. They should help you try to get one.
2. Offer to take you to a shelter. **OR** to somewhere safe like the home of a friend or relative.



3. Tell you about your legal rights and about services that might help you.

To find a shelter or get help, call  
**Nationwide Hotline**  
**1-800-799-7233**  
or **1-800-787-3224 (TTY)**

**Legal Aid Society**  
of Middle Tennessee and the Cumberland  
**1-800-238-1443**  
It's a free call.

On the internet at: **[www.las.org](http://www.las.org)**

This pamphlet is not meant to take the place of legal advice. Each case is different and needs individual attention. 10/2005