



THE BASICS

Getting an Order of Protection in
New York State

ACKNOWLEDGEMENTS

The Cross-Borough Collaboration (“CBC”) originated as a joint project of the Brooklyn Bar Association Volunteer Lawyers Project and Her Justice (formerly known as inMotion). Originally launched in 2002, the goal of the CBC was and continues to be the dissemination of clear and concise informational booklets for the general public on various common legal issues. Also known as “The Basics” series, these booklets have been updated periodically by Her Justice and continue to be distributed to our clients on an ongoing basis. We would like to extend our thanks to the Brooklyn Bar Association Volunteer Lawyers Project for their initial involvement in this important project. Her Justice thanks and acknowledges Leila F. Bose, Translator & Coordinator of Translation Services at Cravath, Swaine & Moore LLP for their very generous in-kind donation of the Spanish translation of The Basics booklets.

SOURCES CONSULTED

The Brooklyn Bar Association Volunteer Lawyers Project and Her Justice thank the following agencies and organizations for generously contributing both written materials and advice to assist in the preparation of the booklets in THE BASICS series.

CITY, STATE AND NATIONAL GOVERNMENT AGENCIES

Administration for Children's Services, Parents' & Children's Rights Unit and Division of Legal Services

C-PLAN: Child Planning and Advocacy New, Public Advocate's Office

New York City Department of Health

New York State Department of Social Services

New York State Office of Court Administration

Social Security Administration

State of New York Unified Court System

U.S. Department of Justice, Immigration and Naturalization Service

U.S. Department of Justice, Violence Against Women Office

U.S. Department of State Office of Children's Issues

ORGANIZATIONS

Association of the Bar of the City of New York

Bronx Legal Services

The Door

The Family Center

Family Violence Prevention Fund

Lambda Legal Defense and Education Fund

Law Tek Media Group, LLC

The Legal Aid Society, New York City, Juvenile Rights and Civil Divisions

Legal Information for Families Today (LIFT)

MFY Legal Services, Inc.

New York Association for New Americans, Inc.

New York County Lawyers Association

New York Legal Assistance Group

New York Bar Association

Pace University School of Law

Safe Horizon Domestic Violence Law Project

Sanctuary for Families Center for Battered Women's Legal Services

South Brooklyn Legal Services

Urban Justice Center

Women's Prison Association



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THE BASICS

Orders of Protection in
New York State

This booklet will tell you how to get an order of protection. If you worry about whether it is a good idea for you to try to get an order of protection, you can contact a domestic violence organization for advice and help. Counselors and lawyers at these organizations can help you plan how to protect your own safety and the safety of your children.

WHAT IS AN ORDER OF PROTECTION?

If someone you are close to (your intimate partner or a family member) is abusing you and/or your child(ren), you can go to Court to ask for legal protection. If you do so, you will be asking a Judge to give you an order of protection.



AN ORDER OF PROTECTION IS A COURT ORDER THAT TELLS YOUR ABUSER TO STOP ABUSING YOU. IT MAY ALSO TELL YOUR ABUSER TO STOP ABUSING YOUR CHILD(REN). THE ORDER TELLS THE ABUSER IN DETAIL WHAT THEY MUST DO AND MUST NOT DO.

An order of protection cannot guarantee your safety. But if your abuser violates (does not obey) the order, here are some of the things that can happen to help keep you safer:

- Your abuser can be arrested and put in jail.
- Your abuser can be charged with a more serious crime. That means they can go to jail or prison for more time.
- Your abuser can have guns in their possession taken away.
- If you have been living together and you have left home, the police will go with you to get your things from where you were living.
- If your abuser stalks you or is harassing you at work, you can call the police to protect you at work.
- You can get another order of protection that lasts for a longer time and/or further restricts their abusive actions.

HOW DO I GET AN ORDER OF PROTECTION?

You can get an order of protection in Family Court or Criminal Court. In fact, you can get one from both Family Court and Criminal Court at the same time. If you are getting divorced from your spouse, you can get one as part of your divorce case in Supreme Court.

You can go to Family Court if the person you need protection from is:

- Your spouse or your ex-spouse.
- Household members.
- The parent of your child(ren), even if you were never married.
- Related to you by blood, marriage or adoption (for example, your parent, child, uncle or cousin).
- Someone you have an “intimate relationship” with, even if you are not related.



YOU MAY HAVE AN “INTIMATE RELATIONSHIP” WITH SOMEONE IF YOU ARE IN A CLOSE RELATIONSHIP (USUALLY SEXUAL). YOU MAY BE MARRIED, LIVING TOGETHER BUT NOT MARRIED (DOMESTIC PARTNERS) OR DATING BUT NOT LIVING TOGETHER.

If you go to Family Court, you do not have to show the Court that your abuser was arrested. If you or someone else calls the police when your abuser has been violent against you and they are arrested on criminal charges, the case will usually go to Criminal Court. But even if the abuser has been arrested and even if you get a Criminal Court order of protection, you can still apply (petition) for an order of protection in Family Court.

If you want information about getting an order of protection in Supreme Court as part of a divorce case, you can find it in the divorce booklet in *The Basics Series*.

WHAT HAPPENS IF I GO TO FAMILY COURT FOR AN ORDER OF PROTECTION?

You should go to the petition room in Family Court and say that you want an order of protection. They will ask you to sign in and wait until your name is called.

You will be given a form to fill out while you are waiting. This form asks you to list information about your case (for example, the most serious abuse and the most recent abuse you have experienced). The form will help you organize your thoughts and will help the clerk who will type up your petition.

When your name is called, you will meet with a clerk who will type up your petition.

The petition is very important. It is what the Judge looks at before deciding whether to give you the order of protection.



WHEN YOU ASK FOR AN ORDER OF PROTECTION FROM FAMILY COURT, YOU WILL BE CALLED THE PETITIONER.

WHAT INFORMATION SHOULD GO INTO MY PETITION?

Since the Judge's decision will be based on the information in your petition, you should give the clerk as many details as you can.

You should tell the clerk if your abuser has:

- Physically abused you (for example, slapped, pushed or choked you) or your children.
- Threatened to hurt you, your children, or anyone else you care about, or to kidnap your children.
- Threatened to hurt, or has hurt, a pet ("companion animal").
- Made you have sex with them or anyone else against your will.
- Hurt you so that you needed to go to the hospital or the doctor.
- Threatened to report you for abusing or neglecting your children.
- Threatened you with a weapon (for example, a gun or knife) and, if so, where they keep it.
- Thrown things around or broken things during an argument.

- Used alcohol or drugs.
- A history of mental illness.
- Been convicted of any crimes or was arrested for hurting you or has a Criminal Court order of protection against them.
- Violated or disobeyed an order of protection in the past.
- Knowingly presented themselves as another person to gain something and cause you to suffer financial loss.
- Forced you to do something that you have a legal right to not to do by using threats of physical violence, property damage, blackmail, etc. so the abuser can get access to your finances.
- Stolen property from you that is worth more than \$3,000.
- Stolen property from you that is worth more than \$1,000.
- Stolen property like a debit or credit card, public record, firearm, motor vehicle, etc.
- Forced or threatened you to give up your property regardless of its value.

Usually, it is best to tell the clerk about the first time and the most recent times they abused you, as well as the worst or most serious thing the abuser has done to you.

The instances of abuse that you list in your petition did not need to have happened immediately before you filed your petition or at the same time you filed your petition—you can list the history of abuse.

Sometimes people feel embarrassed to talk about the abuse. Just remember that what happened to you is not your fault – and that you are not alone. Millions of people are abused by their intimate partners or family members every year. There is no reason to feel embarrassed or ashamed when you give this important information to the court clerk or anyone else.

WHAT PROTECTIONS SHOULD I ASK FOR FROM THE JUDGE?

Your petition tells the Judge what protections you need and want. You can ask the Judge to order any of these things:

- Your abuser must not harm or threaten you or your children.
- Your abuser must stay away from you, your home, job, school, child's school, child's daycare and/or any other place where you often go.
- Your abuser must stay away from your child(ren), the child(ren)'s school, child(ren)'s daycare or any person who cares for the children, or any other specified location.
- Your abuser must move out of the apartment you live in together (even if your name is not on the lease).
- Your abuser must pay temporary child support.
- Your abuser cannot interfere with the care and custody of your child(ren).
- Your abuser's gun license is revoked and they must surrender any guns in his possession.
- You can return home with police protection to pack up your things if you decide to move out.
- Your abuser must pay you for expenses caused by the abuse (for example, medical and emergency room bills or car repairs, if they damaged the car). This is called "restitution."
- Your abuser can't harm or kill your pet ("companion animal").
- That your address be kept confidential (for example, if you have fled the home where you both lived and are now living in a shelter or with a family member/friend and do not want the abuser to know where you and your child(ren) are presently living).
- If your address is kept confidential, the Court will allow either the clerk of the Court or another person, not involved in your case, to receive any documents for you and forward those documents to your confidential address.
- Your abuser can be required to return your documents or "identification documents" like your passport, immigration papers, social security card, benefits or insurance card, etc.

The main focus of the Family Court is to keep you and your child(ren) safe. Getting your abuser to pay for things is not the Family Court's main focus.

SHOULD I READ THE PETITION TO SEE WHAT IT SAYS?

Yes. When the clerk has finished typing the petition, the clerk should give it to you to read. If they do not, ask to see it so you can read it. Reading it over will help you figure out if you have left anything out and help you be sure that the clerk understood everything you said.

If you want to add anything or if you notice any mistakes, ask the clerk to make the changes. You will be required to sign your petition and state that the information it includes is correct. Do not let the clerk rush you. **Take whatever time you need to make sure your petition is correct before you sign it.**

WHEN WILL I SEE A JUDGE?

When your petition is done, the clerk will send you to a courtroom called the intake part. This is where the Judge will read your petition and ask you questions about what you have said.

When you arrive at the intake part, be ready to wait. Many other people will also be asking the Judge to give them orders of protection or some other order that day. Plan to spend the whole day. Bring something to do, like reading. Do not bring your child(ren) to court unless you have no other choice.

WHAT SHOULD I DO WHEN THE JUDGE SEES ME?

After the Judge has read your petition, they will probably ask you a few questions. Try not to let this scare you. How you tell your story to the Judge is very important.

Remember that a Judge has many cases to deal with in one day. If the Judge seems rushed or even rude, try not to take this personally. It does not mean that your case is not important. It just means that the Judge wants to get quickly to the information they need to make a decision about your case. The Judge will probably ask direct questions and may interrupt your answers, if you are giving more information than the Judge needs.

Here are a few tips:

- Wait until the Judge tells you to speak. Do not begin to tell your story as soon as you walk into the room.
- Speak and answer questions as calmly and clearly as you can.
- Call the Judge, "Judge" or "Your Honor," and look right at the Judge when you are speaking.
- Do not interrupt the Judge. If the Judge interrupts you while you are in the middle of a sentence, stop speaking right away.
- If you don't know or can't remember the answer to a question, don't try to make something up. Just say, "I don't know," or "I can't remember."
- If you do not hear or understand a question, don't answer it. Say, "I'm sorry, can you say that again?" or "I'm sorry, I don't understand the question."

Your appearance is also important. Dress as neatly as you can. Wear clothes you would wear to work in an office, if possible. But do not worry if this is not possible. Do not chew gum or bring anything to eat or drink with you inside the courtroom. Do not wear a hat inside the courtroom (unless it is for religious purposes).

WHAT IS A TEMPORARY ORDER OF PROTECTION?

On the day you go to court for an order of protection, if the Judge decides you need one, the Judge will issue a temporary order of protection. You should wait to pick up a copy of your temporary order of protection and other papers from the clerk after the Judge sees you.

This order will last for only a short period of time. **It will not start until your abuser is given a copy of the order** and will end on the date when you and your abuser must both come back to court.

On the return date, if your abuser comes to court, this will be the first time they will be able to defend them self in court against what you have said. You must also come back to court on the return date. If you do not, your temporary order will no longer apply.



THE RETURN DATE ON A TEMPORARY ORDER OF PROTECTION IS THE DATE WHEN YOU AND YOUR ABUSER MUST COME BACK (RETURN) TO COURT.

CAN I GET A TEMPORARY ORDER OF PROTECTION AT NIGHT OR ON THE WEEKEND?

Normal Family Court hours are weekdays from 9:00 a.m. to 5:00 p.m. No Courts in the five boroughs have any extended hours. However, the Family Courts in the five boroughs of New York City have the following specific hours:

Bronx (Bronx County)

Doors open to the public at 8:30am. Petitions can be filed starting at that time. The Court does not specify a time for when it stops accepting petitions for filing. Doors are closed to the public at 4:45pm.

Brooklyn (Kings County)

Doors open to the public at 8:30am. Petitions can be filed at that time. Petitions will not be accepted for filing after 1:00pm. Doors are closed to the public at 5:00pm.

Manhattan (New York County)

Doors open to the public at 8:30am. Petitions can be filed at that time. Petitions will not be accepted for filing after 3:30pm. Doors are closed to the public at 5:00pm.

Queens (Queens County)

Doors open to the public at 8:30am. Petitions can be filed at that time. Petitions will not be accepted for filing after 3:00pm. Doors are closed to the public at 4:30pm.

Staten Island (Richmond County)

Doors open to the public at 8:30am. Petitions can be filed starting at that time. The Court does not specify a time for when it stops accepting petitions for filing, but suggests doing so before 1:00pm. Doors are closed to the public at 4:45pm.

And remember, if you feel you are in danger, you can always call the police.

HOW WILL MY ABUSER KNOW ABOUT THE TEMPORARY ORDER?

It is your job to make sure that your abuser knows that you have gone to court to get an order of protection against them. You do this by having someone else deliver a copy of the Family Court papers to them. The Court will give you copies of the papers you must have served on your abuser.



WHEN YOUR ABUSER IS GIVEN PAPERS FROM THE COURT, THIS IS CALLED SERVING THEM WITH THE PAPERS.

Make sure that you also receive copies from the Court of these documents.

By law, your abuser does not have to obey the order until served with the papers.

WHAT IS THE RIGHT WAY TO HAVE THE PAPERS SERVED?

The person who serves the papers must give them to your abuser in person. The papers cannot be mailed to or left at the door or with someone else they live or work with.

You cannot be the one who serves your abuser. But you can choose the person who will serve it, as long as that person is over the age of 18. This person can be a friend or relative, or they can be a process server you pay to do this.

If you are afraid that your abuser could become violent when being served, you can choose to have the police serve the papers. Take the papers to the police precinct where your abuser lives or works and ask to have a police officer serve your abuser.

Your abuser may try to avoid being served. If you are counting on the police to serve them, you need to follow up with the precinct. If they are having trouble finding your abuser, keep notes, writing down each time they tried to serve the order, and what happened.

WHAT PAPERS MUST BE SERVED ON MY ABUSER?

The abuser must get copies of:

- Your petition.
- The temporary order of protection.
- A summons to appear.

When they get these papers, your abuser will then know what the Judge ordered them to do and not to do. And the summons to appear gives your abuser the date to come to court to answer (respond to) what you have said. Make sure that you also receive copies from the Court of these documents for your records.



IN FAMILY COURT, YOUR ABUSER WILL BE CALLED THE RESPONDENT, BECAUSE THEY GET TO RESPOND TO THE CHARGES YOU HAVE MADE AGAINST THEM.

HOW DO I PROVE THAT MY ABUSER WAS SERVED?

Once your abuser has been served with a copy of the papers, any person who serves them, if that person is not a police officer, must fill out an affidavit of service and give it to you.

If the person who serves your abuser is a police officer, the officer should give you a statement of personal service instead of an affidavit of service. This needs to be signed by the officer, but does not need to be signed in front of a notary public. So when you get this statement from the officer, be sure to check to see that it has been signed.



AN AFFIDAVIT OF SERVICE IS A SWORN STATEMENT (SIGNED IN FRONT OF A NOTARY PUBLIC) BY THE PERSON WHO SERVED YOUR ABUSER THAT SAYS WHEN, WHERE AND HOW THIS PERSON DELIVERED THE PAPERS TO THE RESPONDENT.

When you come back to court on your return date, you must give the Court either an affidavit of service or a statement of personal service.

If you do not bring one of these, your case may be dismissed.

WHAT HAPPENS WHEN I GO BACK TO COURT ON THE RETURN DATE?



IF YOU ASK TO CHANGE THE RETURN DATE, YOU WILL BE ASKING FOR A CONTINUANCE OR AN ADJOURNMENT.

This is the time when the Judge will decide whether to give you a permanent order of protection. Be sure to show up.

If something comes up and you need to change the date of your hearing, call the Court clerk immediately and tell the clerk why. You will need to ask for another date.

On your return date, it is a good idea for you to show up early. Even if your abuser has not been served, you need to go back to court on the date the Judge set.

If your court papers were never served on your abuser, you will have a chance to explain why. If there is a good reason, the Judge may give you more time to serve them. If you can, you should give the Judge an affidavit or statement of attempted service.



AN AFFIDAVIT OF ATTEMPTED SERVICE IS A SWORN STATEMENT (SIGNED IN FRONT OF A NOTARY PUBLIC) THAT DESCRIBES ALL THE TIMES AND PLACES WHERE THE PERSON TRIED BUT COULD NOT DELIVER THE PAPERS TO THE RESPONDENT.

WHAT SHALL I BRING TO COURT ON THE RETURN DATE?

Be sure to bring these things and/or people with you:

- An affidavit of service, a statement of personal service or affidavit of attempted service.
- Any physical evidence you have of the abuse (for example, photographs of physical injuries, police reports, hospital records or threatening letters).
- Any adult(s) who witnessed your abuse and who is willing to tell the Judge what they saw or heard.

Be sure to make a photocopy of every paper you bring to court. Keep these copies for your own records.

HOW DO I KNOW WHERE TO GO?

When you get to court, tell the clerk or a court officer the name of the Judge you are there to see. If you do not know the name of the Judge, but you know the part, a clerk or court officer can tell you where the part is. Also, in most court houses on the first floor, court calendars for the day will be posted. You can find your name and courtroom information on the posted court calendars.



THE PART IS ANOTHER NAME FOR COURTROOM.

The clerk or a court officer can tell you how to get to that Judge's courtroom. You will see a court officer standing in front of the room. Let the court officer know that you are there for your case and do what the court officer says.

Most likely, you will have to wait. If you are worried about being in the waiting area with your abuser, go to the Safe Horizon waiting room in the court. Safe Horizon is a social service organization. They have domestic violence counselors on staff and a safe waiting room in every Family Court building in New York City. They will not let your abuser into this room.

WHAT IF MY ABUSER DOES NOT SHOW UP?

If this happens, don't worry. It doesn't mean that your case will be dismissed (ended). Sometimes, the Judge will hold a quick hearing without your abuser. The Judge might make a decision without your abuser there. Or the Judge might order you and your abuser to come back on a new date. If you can show that your abuser is trying to avoid being served, the Judge might also order your abuser to be arrested to make sure they will attend on the new date.



AN ARREST ORDER FROM A JUDGE IS CALLED A WARRANT.

WHAT IF MY ABUSER DOES SHOW UP?

- **You both may agree (consent) to the order of protection.** If your abuser agrees in front of the Judge to what is stated in the temporary order, then you won't need a fact-finding hearing. Many people who have temporary orders filed against them will agree to them so they



IN FAMILY COURT, A TRIAL IS CALLED A FACT-FINDING HEARING.

don't have to have a fact-finding hearing. They are afraid of what else might be said against them at this hearing.

- If you both agree to a final order of protection, the Judge will not make a decision that your abuser has done anything wrong, but you will get a final order of protection from the Judge.
- **You or your abuser may ask for a fact-finding hearing.** If your abuser says the charges you made aren't true, the Judge will hold a hearing to find out who is telling the truth.

WHAT IF I CHANGE MY MIND AND DO NOT WANT AN ORDER OF PROTECTION?

If you do not want to go forward right away but think that there may come a time again when you'll need an order of protection against your abuser, you can go to court or send a letter to the Court asking to have your petition withdrawn "without prejudice."



IF YOUR PETITION IS WITHDRAWN WITHOUT PREJUDICE, THAT MEANS YOU CAN FILE A NEW PETITION AT A LATER DATE GIVING THE COURT THE SAME INFORMATION ABOUT YOUR ABUSER THAT YOU INCLUDED IN YOUR PETITION THIS TIME.

You can always go back to court to file a new petition for an order of protection if there are new incidents of abuse since you withdrew a past petition.

DO I NEED A LAWYER?

The Family Court does not require you to have a lawyer. But you have a right to have a lawyer representing you in your order of protection case. This is true whether your case is proceeding in Family Court or in Supreme Court. You can ask the Judge to appoint a lawyer for you for free, if you cannot afford to pay for one. If the Judge decides you do not qualify for a free lawyer, you can try to find one by calling a bar association or legal services agency in your borough.

WHAT HAPPENS IN A FACT-FINDING HEARING?

You will go in front of the Judge and explain why you need an order of protection. You can show evidence of the abuse (for example, photographs, police reports or medical records) and you can testify and call witnesses. You should make sure to tell the Judge about any weapon your abuser used and any injuries they gave you. Your abuser has a chance to defend them self. They can give evidence, testify and call witnesses, too. The Judge will then make a decision without a jury.

If the Judge decides that what you have said is true, the Judge will give you a final order of protection. In many cases, the Judge will make a decision right away.

However, you and your abuser may need to come back to court more than once, because the fact-finding hearing could take more time than the Court scheduled on the return date. If your case is difficult and/or if the Judge needs more information from you or your abuser to make a decision, the Judge will set another date when you will need to return.

As long as the Judge has not finished the fact-finding hearing, the Judge should extend your temporary order of protection until your next court date. It is important to get a copy of your temporary order of protection every single time it gets extended. You should always make sure the judge has extended the order before you leave the courtroom.

Remember that how you act in court is important. If going back to court a number of times is hard for you for whatever reason, think of each day your case is in court as another step closer to getting what you want. Try to maintain a positive attitude.

WHAT HAPPENS AFTER THE HEARING IS OVER?

If your abuser is there in court, the Court will give both of you a copy of the final order of protection. If your abuser does not show up, the police will need to deliver the final order of protection to them.

Most Family Courts issue final orders of protection that are effective for up to two years from the date the order was issued.

Aggravating circumstances can be a physical injury, use of a dangerous instrument, repeated violations of prior orders of protection, prior convictions for crimes against you, exposure to any household members to physical injury, or similar incidents that are an immediate and ongoing danger to the petitioner or household member of the petitioner.

After a trial, if the Court finds that aggravating circumstances existed, the court can grant an order of protection for up to five years.

The police are supposed to deliver the order of protection to your abuser within 24 hours. You can choose whether to have the Court send the order to the abuser's local police precinct or to bring it there yourself.

It is probably best to bring the order yourself. You will want to go to the precinct anyway to check to make sure that they received the final order of protection from the Court to serve on your abuser.

WHAT HAPPENS IF MY ABUSER IS ARRESTED?

A Criminal Court case against your abuser begins when you or someone else makes a call to the police. When the police arrive, tell the officers what happened. Give the officers simple and direct answers. The police will write a report about the incident.

Be sure to get a copy of your police report.



THE POLICE REPORT IS CALLED A DOMESTIC INCIDENT REPORT, OR DIR.

Your abuser may or may not be arrested. If your abuser is arrested, the case will be handled in the Criminal Court.

You may also seek an order of protection in the Family Court even if there is a criminal case against your abuser. An order of protection from the Family Court may be effective for a longer period of time than the Criminal Court order of protection and may include more extensive protection for yourself and your child(ren).

IF MY ORDER OF PROTECTION IS DUE TO EXPIRE, CAN I TRY TO EXTEND IT?

Yes. You can try to extend your order of protection, especially if an incident of abuse occurred during the time before the order of protection expired. Even if an incident did not occur during this time, you can still try to extend the order of protection.

In order to seek an extension, you must show “good cause” (a good reason) why the order of protection should be extended. The order of protection may also be extended if both parties agree to the extension. You must be able to state specific reasons to the Court explaining why your order of protection should be extended.

WHAT HAPPENS IN CRIMINAL COURT?

If the police arrest your abuser, the case will be assigned to an Assistant District Attorney (sometimes called an A.D.A.) who will present the evidence against your abuser in Criminal Court. You are the complaining witness in the case. Your abuser is the defendant in the case.

Be sure to get and remember the name and phone number of the A.D.A. assigned to your case.

Your abuser should be arraigned within 24 hours of arrest.

Several things happen at the arraignment. The defendant pleads guilty or not guilty to the criminal charges. The Judge decides whether to issue a temporary order of protection against the abuser for you until the next court date. The temporary order of protection can be replaced by a permanent order of protection when the case ends.



AN ARRAIGNMENT IS THE FIRST CRIMINAL COURT APPEARANCE AFTER A DEFENDANT IS ARRESTED.

WHAT DO I DO IF THERE IS A CRIMINAL CASE?

Keep in touch with the A.D.A so that you will know what is happening with your case. The A.D.A. in charge of your case will want you to testify against your abuser in court. Without your testimony, the A.D.A. may have trouble proving the criminal charges against your abuser.

You are the most important witness for the criminal case. You may or may not want to testify. You should talk this over with the A.D.A., who will want to know whether you will help prosecute your abuser.

If you are afraid to testify, the A.D.A should offer you protective services.

WHAT ARE THE DIFFERENCES BETWEEN FAMILY COURT AND CRIMINAL COURT ORDERS?

Because all orders of protection are meant to protect you from your abuser's dangerous actions, most of them are similar. They tell your abuser to stop abusive actions toward you and possibly your children. Often they tell your abuser to stay away from you and your children.



AN ORDER OF PROTECTION WILL LIST THINGS YOUR ABUSER CANNOT DO AND/OR MUST DO. THESE THINGS ARE CALLED THE RELIEF THE JUDGE HAS GRANTED.

However, by law there are some differences in what Criminal Court Judges and Family Court Judges can order:

- A Criminal Court Judge cannot decide issues concerning children, such as custody, visitation and child support. Only a Family Court Judge can do this.
- A Criminal Court Judge can sentence your abuser to a fine, or a jail term for abusing you. A Criminal Court Judge can also send your abuser to jail for violating a court order.
- A Family Court Judge can jail your abuser only for violating a court order. Family Court Judges can refer serious cases to Criminal Court for prosecution.
- A Family Court Judge can direct your abuser to pay for your attorney's fees, if any, and to pay for any medical or damage to property bills ("restitution") you have that arose from the incident(s).



RESTITUTION MEANS YOUR ABUSER MUST PAY YOU BACK FOR EXPENSES THEY CAUSED BECAUSE OF THEIR ABUSE, LIKE MEDICAL BILLS OR PROPERTY DAMAGE.

WHAT WILL HAPPEN TO MY CHILD WHILE I AM IN COURT?

If you have a choice, it is much better to leave your child with a family member or friend while you are in court. Being in court will be hard on both you and your child. Taking care of your child's needs can distract you from what you need to do. It can also make you worry and increase your stress levels. Judges will usually not allow you to bring your child with you into the courtroom.

Family Courts in New York City have children's centers in them. But these centers are small, have limited hours, and typically do not accept children who are in diapers. If you need to bring your child with you, be sure to get to court as early as possible. Then you have a better chance of getting your child into the children's center. Criminal Courts do not have children's centers. If you can't get someone to watch your child while you are in court, contact Safe Horizon to see if they can help you.

WHAT IF I NEED AN INTERPRETER IN COURT?

The Courts are supposed to give you an interpreter, if you need one. **If you can't speak English very well and you feel you need an interpreter, you should tell the clerk or court officer right away.**

In most cases, Spanish language interpreters are available every day in the courthouse. There are also interpreters of many other languages. If you would like to know if an interpreter will be available for you, call the court before you go in, to be sure.

If you are deaf or hard of hearing and need American Sign Language interpretation, call the court in advance. If you have a TTY, the number for New York Relay Service is 1-800-662-1220. Be sure to have the telephone number of the court you will be going to with you. If you do not have a TTY, ask a friend to call for you.

If it is an emergency, however, just show up at the court and an interpreter will be located for you. You will probably need to wait a while, but try to be patient.

WILL I LOSE MY JOB BECAUSE I TAKE TIME OFF TO GO TO COURT?

No. Your employer is legally required to let you, and the people who may be your witnesses in court, take time off from work for court appearances, if the case involves pursuing an application or enforcement of an order of protection.

Your employer does not have to pay you for the time you take off. You can use personal or vacation days that you have saved up if you have them available to you.

WHAT IF MY ABUSER VIOLATES THE ORDER OF PROTECTION?

You can call the police immediately and have your abuser arrested. If you have your abuser arrested, they will have to go to Criminal Court.

If your order is from the Family Court, you can go back there and file another petition, even if you have not had your abuser arrested. This new petition will be called a violation of an order of protection. In the new petition, you can ask the Judge for more (increased) protection for yourself and your family. If the court decides that your abuser violated your order of protection, you could get a new final order of protection for up to five years.



IF YOUR ABUSER VIOLATES THE ORDER OF PROTECTION, THAT MEANS YOUR ABUSER DISOBEYS SOMETHING THE JUDGE ORDERED IN THE ORDER OF PROTECTION. SOMEONE CAN VIOLATE A TEMPORARY OR FINAL ORDER OF PROTECTION.

WHAT ELSE CAN I DO TO BE SAFE?

Before you even go to court to get an order of protection, it is very important to make a safety plan for yourself. A safety plan is a checklist to help you take the steps you need to protect yourself and your family. You are the one who knows your abuser best. And you are the best person to decide whether and when it is safe for you to take action to make a change.

It is always helpful to talk this through with a domestic violence counselor or some other person you trust. You can share your thoughts and get the other person's ideas about ways to stay safe.

Two organizations in New York State that can give you information about safety planning and the names and contact information for agencies near you that can help are:

New York State Office for the
Prevention of Domestic Violence
80 Wolf Road
Albany, NY 12205
www.opdv.state.ny.us

New York State Coalition
Against Domestic Violence
350 New Scotland Avenue
Albany, NY 12208
(518) 482-5465
www.nyscadv.org
(800) 942-6906 English
(800) 942-6908 Spanish

Once you have an order of protection, temporary or final, there are some other steps you can take to stay safe.

Here are some general safety tips:

- Always keep a copy of your order of protection with you and file another copy of it with your police precinct.
- If you and your abuser used to live together and you have stayed in your home, change the locks. If you don't have money to change your locks, contact Safe Horizon for Project SAFE, a program that changes locks for people who are afraid. Call Safe Horizon's 24-hour Crime Victims Hotline at 866-689-HELP. New locks are installed within 24 to 48 hours.
- Pack a bag with clothing, money and important papers and other things you will need if you have to leave home in a hurry. Keep it ready in a safe place.
- If you can, put in a security system where you live. Also be sure that you have smoke detectors and fire extinguishers that work in all parts of your apartment or house. Make sure that the outside of your home (for example, the yard or hallway) is well-lit.
- Let your neighbors know that your abuser does not live with you anymore. Ask them to call the police if they see your abuser near or in your home, or with your child(ren).

THE BASICS: ORDERS OF PROTECTION IN NEW YORK STATE

- Keep emergency contact phone numbers with you at all times (for example, 911, your police precinct and your lawyer).
- Carry a cell phone, if you can. The police department and Safe Horizon will give people who have an order of protection a free cell phone that calls 911 in an emergency.
- If the order of protection covers your child(ren), tell anyone who takes care of your child(ren) that your abuser is supposed to stay away from your child(ren). That includes your child(ren)'s school. Give them a copy of the order of protection. Tell them that they should call the police if your abuser tries to take your child(ren) from day care or school.
- Stay away from places you used to go with the abuser. That way, you can avoid seeing them.

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