



Protective Orders in Virginia— A Guide for Victims



Virginia Department of Criminal Justice Services
www.dcjs.virginia.gov

This brochure is intended to provide summary information regarding family abuse protective orders and protective orders covering other non-family abuse circumstances.

What is a Protective Order?

It is a legal order issued by a magistrate or judge to protect the health and safety of an abused person and his/her family or household members. The person filing for a protective order is called the “petitioner” and the person the protective order is filed against is called the “respondent”.

Who is eligible to ask for a Protective Order?

In order to be eligible for a protective order, you must have been, within a reasonable period of time, subjected to an act involving violence, force, or threat that results in bodily injury or places you in reasonable fear of death, sexual assault, or bodily injury. (See *Code of Virginia* §19.2-152.7:1).

Is a Protective Order right for you?

Each situation is different. Protective orders can provide you with legal protection, but they cannot necessarily protect you from violence. In order to help protect yourself from a violent act, you can contact a domestic and sexual violence advocate to assist you with figuring out what you need to stay safe and to develop a plan. It is important to get further information from local resources, such as your local victim/witness program, domestic violence service agency, sexual assault crisis center, Juvenile and Domestic Relations District Court Intake Office, and/or the General District Court.

Where do I go to request a Protective Order? It depends.

The type of relationship you have (or had) with the person who is harming or threatening you determines where you can request a protective order. If that person is a family or household member (defined on the following page) you can request a family abuse protective order through your local intake office for the **Juvenile and Domestic Relations District Court**. You also request a protective order there if either the petitioner (person requesting the protective order) or the respondent (person committing acts of violence or threatening behavior) is under the age of 18. Staff in the intake office can provide additional information.

All other requests for protective orders that do not meet the definition of family or household member (including but not limited to dating or same-sex partners who do not live together) are made through the **General District Court**. The **General District Court Clerk’s Office** can provide additional information about local procedures.

Definition of Family Abuse and Family or Household Member (§16.1-228)

Family abuse is any act involving violence, force or threat that results in bodily injury or places one in reasonable fear of death, sexual assault, or bodily injury and that is committed by a person against a family/household member. This includes, but is not limited to, any forceful detention, stalking, or criminal sexual assault.

Family or household members include the following:

Spouse, ex-spouse, parents, children, step-parents and step-children, siblings, half-siblings, grandparents, grandchildren, persons who have a child in common, regardless of residence; in-laws, who live in the same home; and co-habitants and those who have co-habited in the past year and their children.

There are three types of Protective Orders

1. **Emergency Protective Orders (EPO)**

A law enforcement officer or the abused person may petition for (request) an **EPO**. This order will most likely be requested by a law enforcement officer if an arrest has been made or if the officer finds that there is probable danger of further acts of family abuse, or violence, force or threat. An **EPO** can only be issued by a magistrate or a judge. **The person being abused can also petition for an EPO at the magistrate’s office, even if an arrest has not been made.** An **EPO**

lasts for 72 hours or until the court is next in session, whichever is later. The date and time the EPO ends can be found on the order.

In order to protect your health and safety, an EPO, *in all cases*, can impose the following conditions on the respondent (abuser):

- ◆ Prohibiting all contacts by the respondent with the victim or the victim's family or household members;
- ◆ Prohibiting acts of violence, force, or threat or criminal offenses resulting in injury to person or property, and;
- ◆ Other conditions the judge or magistrate deems necessary to protect you and family/household members.

In cases of family abuse, an EPO can also:

- ◆ Grant temporary possession of the residence to family/household members.

2. Preliminary Protective Orders (PPO)

Only a judge can issue a PPO. You must obtain a PPO within a short time after you have been the victim of family abuse or other acts of violence, force or threat. **A judge will decide if the PPO will be granted, based on your sworn statement.** You do not have to have an EPO to get a PPO, and the respondent (abuser) does not have to be at the hearing. If a PPO is granted, it will last 15 days, or until the final Protective Order hearing. The judge will give you the date for the final hearing and it will also be included on the PPO.

In order to protect your health and safety, a PPO, *in all cases*, can impose the following conditions on the respondent (abuser):

- ◆ Prohibiting all contacts by the respondent with the victim or the victim's family or household members;
- ◆ Prohibiting acts of violence, force, or threat or criminal offenses resulting in injury to person or property, and;
- ◆ Other conditions the judge deems necessary to protect you and family/household members.

In cases of family abuse, a PPO can also:

- ◆ Grant temporary possession of the residence to family/household members.
- ◆ Require that the respondent maintain utility services for the household, or if appropriate, order respondent to restore such services.
- ◆ Grant temporary possession of a jointly owned vehicle.
- ◆ Require the respondent to provide suitable alternative housing for the family/household members.
- ◆ Require any other relief necessary for the protection of the victim and family/household members of the victim.

3. "Permanent" Protective Order (PO)

A judge can grant a PO that lasts for up to two years. In order to obtain this PO, you must attend the final Protective Order hearing, which is scheduled at the time of your PPO hearing. The judge will subpoena the respondent (abuser) to be at the PO hearing. Both you and the respondent will be asked to describe what happened.

This PO can also be extended for an additional two years, if the petitioner requests an extension, and a judge finds that there is a need to extend protection. There is no limit to the number of protective order extensions that can be granted by a judge.

In order to protect your health and safety, a PO can impose all of the same conditions on the respondent (abuser) as are detailed in the PPO section, for a period of up to two years at a time.

In addition, in cases of family abuse, a PO can:

- ◆ Require respondents to participate in treatment, counseling, or other programs required by the court.
- ◆ Provide for temporary custody or visitation of a minor child.

Protective Orders are free

There is no charge for petitioning for a protective order, filing copies of a protective order, or having the order served on the respondent.

Do I need legal representation for a Protective Order?

No. You do not need an attorney to file for a protective order. However, there are often free legal services available for low income victims who would like to obtain a protective order. Many area domestic violence service agencies have free attorneys and victim advocates available for victims who would like a protective order. Local Legal Aid offices also assist victims in obtaining protective orders. All local Juvenile and Domestic Relations District Courts have court services units to assist victims in obtaining protective orders. To find out more about the services available in your area, please call the toll-free Virginia Crime Victim Assistance Info-Line at 1-888-887-3418 or the toll free Virginia Family Violence and Sexual Assault Hotline at 1-800-838-8238.

Do I have to press charges to get a Protective Order?

No. **A protective order is a civil order, and is not the same as pressing criminal charges. You may press criminal charges against the abuser, in addition to petitioning for a protective order, but you do not have to press charges in order to get a protective order.**

Once a protective order has been served on the respondent (abuser) it can be enforced. It is the respondent's responsibility not to violate the terms of the protective order. **Violation of certain protective order conditions by the respondent is a crime. If the respondent is convicted of violating a protective order, he or she must serve some time in jail.** Additionally, the court must issue a new protective order.

Is a Protective Order from another state valid in Virginia?

If I go to another state, will my Virginia Protective Order be valid in that state?

The answer to both questions is yes. Federal law requires states to enforce each other's protective orders. To prevent confusion or delay in enforcing the order by law enforcement, you can register a certified copy of your order with the Juvenile and Domestic Relations District Court or the General District Court in the city or county where you will be visiting or residing.

How to make sure Protective Orders work for you

- ◆ Follow all the conditions and terms stated in your protective order.
- ◆ Go to all the scheduled hearings.
- ◆ Report any violations of the protective order to law enforcement immediately.
- ◆ Carry a copy of the protective order with you at all times and show it to law enforcement, if it is violated.
- ◆ Avoid deliberate contact with the respondent (abuser).
- ◆ Develop a safety plan with your victim/witness program or domestic violence or sexual assault agency (if applicable).

Resources that may be helpful to you:

I-CAN! Virginia

Virginia has an Online Forms Completion Program for protective orders called I-CAN! Virginia. It is a free online program that helps individuals complete the forms necessary to ask the courts for protective orders. I-CAN Virginia is available on Virginia's Judicial System Website at www.courts.state.va.us. To access I-CAN, from the main menu select "Programs" and then click "Assistance with Protective Orders (I-CAN!)."

For additional information, assistance, and referrals you may call the following statewide toll-free numbers:

Virginia Crime Victim Assistance Info-Line
1-888-887-3418

Virginia Family Violence and Sexual Assault 24/7 Hotline
1-800-838-8238

Legal Aid Hotline
1-866-LEGLAID (1-866-534-5243)

Virginia Poverty Law Center (Family & Sexual Violence)
1-800-868-8752

Virginia State Bar Lawyer Referral Service
1-800-552-7977

The information from this brochure is available on the internet. You may download it from the Virginia Department of Criminal Justice Services website at: www.dcjs.virginia.gov/victims/documents/protectiveordersguide.pdf



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