

Afraid of someone you know?

Here's how to get a court Order of Protection in Davidson County



What is an Order of Protection?



It is a paper signed by a Judge. It helps protect you from certain people who have hit you, threatened, or stalked you. You can get an Order of Protection without having a lawyer.

Who can you get an Order of Protection against?

You can get an Order of Protection if you are hit or threatened by:

- 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, or
- Someone you have dated or had sex with
- Someone who stalked you
- Someone who raped or threatened to rape you.



3. It can make the other person move out. **OR** pay for another place for you and your children to live.
4. It can order the other person not to hurt or threaten you and your children. It can do this even if the person still lives with you.
5. It can give you temporary custody of the children and/or your pets.
6. It can order the other person to pay support money for you and/or the children.



Someone to talk with

You may want to talk to the police before you file. Can you call during the day or early evening? Then the police department has investigators and counselors who can help you. Their number is **880-3000**.



What can an Order of Protection do for me?

1. An Order of Protection orders the other person not to bother you or your children.
2. Has the other person bothered you or your children after they knew about the Order? Then it gives you the power to have them arrested on the spot.



The Morning Star night court office can help you fill out paperwork for an Order of Protection. Their number is **862-5197**.

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

How do I file for an Order of Protection?

Step 1: Getting an Ex Parte Order

The first step is to get a short-term Order of Protection. It lasts until the Judge can hold a hearing. The short-term order is called an **ex parte** order. It orders the other person to leave you alone until the hearing.

Once the other person knows about the order, you can have them arrested on the spot. They can be arrested if they hit, threaten or contact you. The ex parte order does not cover child support or custody. It does not cover if the other person must move out of the house. The judge will decide those things after a hearing.

Are you under age 18 and not emancipated (declared an adult) by a court? Someone must sign for you when you file for an Order of Protection.

Tell why you need protection

When you file for an Order of Protection, you must fill out several papers. The paper called a petition asks the Judge to give you an Order of Protection.

On the petition, you tell how you have been hurt or threatened. Try to give the exact dates when it happened. Also, tell exactly what the other person did. For 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." Don't stretch the truth or make things up in your petition. That will hurt your case and you could get arrested.



Do you also want your children protected under the Order of Protection? Then you must say how the other person hurt or threatened your children.



No one pays a fee at the time they file for an Order of Protection.

Where to file

You can file for an Order of Protection in 2 places. They are:

1. Metro Police Domestic Violence Division, at 811 Second Ave. South, 880-3000 (call ahead if you can) **OR**
2. Night Court, in the basement of the Metro Criminal Justice Center across from the Metro Courthouse. Go in the door on the Second Avenue side.

Going to the Domestic Violence Division? Then they will send your Petition to the Night Court Commissioner while you wait.



Night Court is open 24 hours a day. Between 8:00 in the morning and 10:00 at night, you can go there by yourself. **OR** ask the Police Domestic Violence Unit (880-3000) to send a police officer with you. After 10:00 at night, you **must** take a police officer with you. **OR** wait until the next morning.

The Night Court Commissioner will first have you fill out papers about the other person. Then you will be told to fill out a petition. The petition asks the Judge to give you an Order of Protection.

After you fill out the form, the Night Court Commissioner will read what you have written. Then the Commissioner could do **1 of 2 things**:

1. Tell you that you don't have enough facts to get an ex parte Order of Protection.
2. **OR** hand you the signed ex parte Order of Protection.

If you get a signed Order, read it carefully. Make sure the Night Court Commissioner checked all the boxes you asked for.

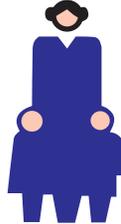
There will be a hearing on your Order of Protection petition. Most of the time, it will be **within 15 days**. The Night Court Commissioner will tell you where to go for the hearing.

Your hearing will be in the General Sessions Court IF:

- You are **NOT** married to the person who hits, threatens, or stalks you **AND**
 - You **don't** have children together.

OR

- You are **NOT** married to the person who hits, threatens, or stalks you **AND**
 - You **DO** have children together **BUT**
 - You **DON'T** have a court order for Child Support/ Visitation
 - OR** you **DON'T** have proof of who the father of the children is. Proof can be a birth certificate showing the father. **OR** it can be a paper signed by the father saying these are his children.



Are you not married to the person who hits, threatens or stalks you? But you do have children together? Then **AFTER** you file for your Order of Protection, go to Juvenile Court. Ask the judge to set a visitation schedule for your children.

Your hearing will be heard in Circuit Court IF:

- You are **married** or **used to be married** to the person who hits or threatens you

The Sheriff will serve the petition. This means giving the person you filed against a paper. The paper says when there will be a hearing to decide your case. The Sheriff will call and tell you when to come to your hearing. The Court will also send you a letter. It will tell you where to go and when for the hearing on your Petition.

Step 2. Keep your Ex Parte Order with you

Always keep a copy of the Order with you to show to the police.

You may also want to give a copy to your neighbors, your boss, the landlord or your children's schools or day care.



Step 3. The Sheriff tells the other person about the Order

The Night Court

Commissioner signs the Order. Then the Sheriff's Office will try to find the other person. When they do, they will read the Order to him or her.



What happens once the other person knows about the order? You can have him/her arrested on the spot if they hit or threaten you again. Call the police right away if the other person contacts you. This means:

- Phone calls
- E-mail or Text messages
- Sending flowers
- Showing up at your home or work and
- Having someone else give you messages



Step 4. You go to a court hearing

You **MUST** go to the hearing on your Petition for an Order of Protection. If you don't go, the Judge will dismiss your case.

The Judges understand that you may be scared about the hearing. It is OK to go to the hearing without a lawyer. Many people go without a lawyer. Does the other person have a lawyer? Then you may want one, too. You can ask the Judge to give you time to get a lawyer.

How to get ready for the hearing

To get an ongoing Order of Protection, you must show the Judge that you are in danger. Before the hearing, think about questions you might be asked. Be ready to give short, simple, true answers. Wear your good clothes to court. **Don't** wear shorts, blue jeans, tank tops or low-cut tops.

Bring to court any proof you have that the other person hit, threatened or stalked you. You can use a doctor's report, a police report or pictures of your injuries. Bring witnesses – anyone who saw it happen, saw your injuries or heard the other person admit it. People you told about what happened can't usually help you at the hearing.



At the Hearing

The Judge will ask you what happened. Stick to the facts about when and where you were hit, threatened or stalked. Often you can only talk about what you wrote in your papers. Be sure to write down everything you want the court to know about what happened. You can add extra pages if you need more room.



You must explain to the judge why you are afraid of the other person. Say exactly what the other person did to make you fear him/her. Don't talk about trouble with the other person's friends or family. Be sure to tell the Judge if the other person has hurt you before. Be sure to say if you had to see a doctor or leave home. Tell the Judge if:

- The other person has hurt or threatened to hurt your pets **OR**
- You pressed charges because the other person beat you up **OR**
- You pressed charges because the other person did other crimes against you **OR**
- Since you got the Ex Parte Order of Protection the other person has:
 - Contacted you **OR**
 - Hit you **OR**
 - Threatened you

Did the other person hurt or threaten your children? Or did the other person take or damage your belongings? Tell the Judge.

The Judge will let the other person ask you questions. Don't let this upset you. The Judge may also let you ask questions.

What the Judge can decide at the hearing

1. The Judge can stop the Ex Parte Order of Protection. This happens if the Judge thinks you have not shown you were in danger.
2. The Judge can OK an Order of Protection to protect you, your children and your pets. It is meant to stop threats, harassment, stalking or any sort of contact. The Order will last for a year. If you have filed for divorce, it lasts until the Judge grants your divorce.
3. The Judge can make the other person move out of the house. **OR** pay for another place for you to live.
4. The Judge can order the other person to go to counseling programs for help. This is for problems like a violent temper, violent behavior, drugs or drinking.
5. Are you in Circuit Court? Then the Judge can also give you temporary custody of the children and your pets. The Judge can also set rules for visits with the other person. Is it dangerous to leave the children alone with the other person? Then the Judge can order another adult to be at the visits.
6. Are you in Circuit Court? Is the other person the parent of your child? Then the Judge can also order the other person to pay child support. If you are married, the Judge can order the other person to support you.
7. Are you in General Sessions Court? The Judge will **NOT** order custody or support for your children. You must go to Juvenile Court for this. The Judge can cover your children under the Order of Protection. **BUT** you must tell the Judge what the other person did to hurt or threaten your kids.



Other rights when you call the Police

You have certain rights even **without** an Order of Protection.

If you have been hurt, call the police right then. The police can arrest the other person on the spot, even if they did not see it happen. They must have "probable cause" to arrest someone. This means they believe the other person hurt you and may do it again. They decide based on what you and other witnesses say.



Also, when the police come, they should always do these things:

1. Offer to take you to Night Court. They should offer to help you get an arrest warrant or an order of protection.
2. Offer to take you to a shelter or somewhere safe like a friend's home.
3. Tell you about your legal rights and services that might help you. What if the police officer doesn't tell you this? Call Legal Aid at **1-800-238-1443**.



Legal Aid Society
of Middle Tennessee & the Cumberland

Working Together. Doing Justice. Restoring Hope.

300 Deaderick Street
Nashville, Tennessee 37201

1-800-238-1443
This is a free call.

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