



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 the other person not to hurt, threaten or follow you or your children. You can get an Order of Protection without a lawyer. If the other person does not obey the order, you can have them arrested.



Has another person hurt or threatened you? Has someone stalked you or made you have sex against your will? 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 can order the other person not to bother or hurt you or your children again.
2. It can make the other person move out. **OR** make them pay for other housing for you and your children.
3. Is the other person your husband or wife? Then it can order the other person pay support money for you.
4. Is the other person your children's parent? Then it can give you temporary custody of the children. It can also order the other person to pay child support.
5. It can also order the other person to not have a gun or rifle.



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?

If the other person hurt or threatened to hurt you, he or she can be:

- Your past or present husband or wife
- Your child's other parent
- Someone you have lived with
- Someone you have dated or had sex with
- Someone who is kin to you by blood or adoption
- Someone who is kin to you or used to be kin to you by marriage
- Someone who stalked you or
- Someone who made you have sex against your will. **OR** made you afraid he/she would make you have sex against your will.

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, sexual assault or stalking happened. **OR** you can file in the county where the other person 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 other person 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 other person to pay the costs. Do **you** ever have to pay the court costs? Only if the judge decides you made up the abuse.

Who files if you are under age 18?

Are you married or have you been emancipated by a court? If not, someone else must ask for an Order of Protection for you. Who can ask for you? It can be your parent, guardian, case worker or a guardian ad litem lawyer.

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 other person to leave you alone. The ex parte order does not cover child support or custody. Most of the time, it doesn't say if the other person must move out. That can only be done after a hearing. But do you live with the other person? Be sure to tell this to the judge. The Judge can decide if you are in real danger from the other person. If so, the Judge can order the other person to move out until the 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 other person about the Order

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

What if the other person hits or threatens you or your children again? Once the other person 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.

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 other person 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, threatened, stalked, raped or had other sexual

assault. 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 other person hurt, threatened, stalked, raped or did other sexual assault to you. You can use pictures of your injuries and of things they damaged. Bring anyone who saw it happen or saw your injuries. They can help tell the judge why you need an Order of Protection. Witnesses can tell the Judge if they heard the other person admit what he or she did. But witnesses can't just tell what you told them happened.



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 exactly what the other person did. Say if it was hits or other physical harm, threats, stalking, rape or other sexual assault. Tell the Judge when and where you were when it happened. Do **not** talk about trouble with the other person's friends or family.



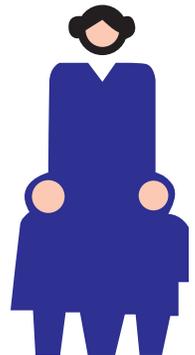
Tell the Judge if the other person has hurt, stalked, threatened, raped or done other sexual assault to you before. Tell the Judge if the other person made you have sex against your will. Tell the Judge if you had to see a doctor or leave home. Have you taken out a warrant for assault and battery or other criminal charges? Tell the Judge.

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

It is important to speak only when the Judge ask you to speak. Do not interrupt the Judge. Do not interrupt the other person. Wait for your turn to talk. Then you can tell the Judge your side of the story.

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, threatened, stalked, or sexually assaulted.
- The Judge can make the Order of Protection **last longer**, up to a year. It can order the other person to not to hurt, threaten, harass, stalk, rape or sexually assault you and your children. The Judge may order the other person not to contact you or your children at all.
- If you are married to the other person, the Judge can make him or her pay support for you. You must need support and your spouse must be able to pay.
- If you are divorcing the other person, the Order can last until the divorce is final.
- The Judge can make the other person **move** out or pay for another place for you to live.
- Is the other person the parent of your children? Then the Judge can give you **temporary** custody of the children and may order him or her to pay **child support**. The Judge can also set rules for visits with the other person. Is it dangerous to leave the children alone with him or her? The Judge can order that another adult has to be at the visits.
- The Judge can order the other person to pay your lawyer.
- The Judge can order the other person 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.

6. You can enforce and extend the Final Order

What if the other person does not obey the Order of Protection? Get to a safe place and then call the nearest law enforcement agency to report the problem. They can arrest him or her.

If you are still afraid when it is getting close to the date that the Order of Protection will end, you can ask the judge to make it last longer. If the other person has not obeyed the Order of Protection, you may be able to get the order extended up to ten more years.

Other rights when you call the Police

Even without an Order of Protection, you have certain rights. If you have been hurt, stalked, threatened, raped or had other sexual assault, call the police at once. Stalking can be in person or by phone, mail, e-mail or text messages.



They can arrest the other person 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 other person 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 or did other sexual assault to you? **OR** by someone who threatened to rape or do other sexual assault

to 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 & the Cumberland

Working Together. Doing Justice. Restoring Hope.

1-800-238-1443
It's a free call.

On the internet at: **www.las.org**

This pamphlet is not meant to take the place of legal advice. Each case is different and needs individual attention. 5/2013