

Orders of Protection

What are they?

How to get one and what to expect

For Bedford, Coffee, Franklin, Grundy, Lincoln, Moore and Warren counties

An Order of Protection is a legal paper. It orders your abuser not to hurt you. It can order your abuser to stay away from you. You don't have to file for divorce. You don't need a lawyer to get an Order of Protection.

What is abuse? Abuse can be threats or harm.

It can be:

- Hitting
- Slapping
- Kicking
- Shoving
- Biting
- Throwing or destroying things
- Threatening to hurt you or your children
- Forcing you to have sex
- Stalking
- Using a weapon or
- Anything else that hurts you or makes you afraid of being hurt.



Example: An abuser says, "If you ever leave me, I will kill you." This is a threat. If it makes you afraid, it is abuse.

Who can you get an Order of Protection against?

A person who has purposely hurt you, or tried to hurt you, or threatened to hurt you, or made you afraid they would hurt you or physically restrained you, or damaged your property.

- 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 who used to be kin to you by marriage

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

If you are 18 or older, you can ask for an Order of Protection.

Are you under age 18? Have you been emancipated by a court? If not, ask the domestic violence shelter or local legal aid office for help.

The way you get an Order of Protection can be different in each county. You need to know how it works where you live. Ask the domestic violence shelter or local legal aid office.



Keep a **written** record of the abuse, threats or stalking. It may help you remember what to say at the hearing.

Where to get help

Go to your local shelter. These places can help with you find an emergency place to live. They also can give you counseling and go to court with you. They answer their phones 24 hours a day.



Haven of Hope

Serves Bedford, Franklin, Moore, Coffee, Lincoln and Marshall counties
PO Box 1271
Manchester, TN 37349-1271
931-728-1133 or
1-800-435-7739 - This is a free call.

Families in Crisis

Serves Grundy, Warren and Sequatchie counties
PO Box 621
McMinnville, TN 37110
931-473-6221
1-800-675-0766 - This is a free call.

Have a safety plan

In case you need to get away fast, keep these things in a safe place:

- Extra car and house keys
- Money
- Birth certificates for you and the children
- Social Security cards for you and the children
- Bag of clothes for you and your children
- Names and phone numbers of friends or family you can stay with
- Local shelter's phone number in case you need a place to stay.



What does getting an Order of Protection cost?

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 Order of Protection? Or what if the Judge doesn't give you an Order of Protection? Then **you** will have to pay the court costs and fees.



Step 1 - Filling out the papers (petition)

What you write on the papers is very important. Your local court advocate can help. See page 2 to find your local court advocate. **Is it an emergency and you can't wait?** Then go directly to the shelter or court clerk. The court clerk must give you the papers to fill out.

Need help with the papers and don't have a lawyer? Then the court clerk must help you fill out the papers. Call the court advocate right away. In the papers, put dates, names and what the abuser did. Say how you know the abuser. Say how the abuser made you feel. Say if the abuser has hurt or threatened you or your children before. This is **very** important.

Example: On Monday, January 26, 2007, my husband, Johnny Smith, hit me in the face. He used his fist. He said, "If you ever leave me, I won't let anyone else have you." I was very scared. My children saw him do this. He has hurt me before.

Say how he hurt you before. **Examples:**

- He hit me.
- He bit me.
- He broke my wrist.
- He kicked me.
- He pulled my hair.
- He shoved me against the wall.



Don't put: "He just bugs me." Or "We were fighting."

Tell the truth. Don't make things up or stretch the truth. If you do, the court may not believe anything you say.

Make a copy to keep before you give the paper to the court. Your local court advocate or court clerk may make a copy for you. You may need a copy of the paper to use at your hearing.

Ask for everything you need in the papers. When you ask for the Order of Protection, you can ask for things such as:

- Temporary custody of your children
- Child support money
- Money for yourself (spousal support)
- For the abuser to move out so you can live in your home and
- For the police to go with you to get your belongings.

What if you forget to ask for these things? Then ask the judge at the hearing.

Are you married? Most of the time, the things you own together can't be divided until the divorce.

Temporary custody of your children

Are you and the abuser married and have children together? Then you can ask for temporary custody and child support money. Do you think your abuser may run off with your children? Do you think your abuser won't let you see your children? Do you think your abuser may hurt your children? Then list them on the Petition. This means the children will stay with you until you go to court.



The law says judges can decide temporary custody and child support at the hearing. But some judges won't do it.

Has your abuser hurt or neglected your children? Then you **must** report the abuse to the Department of Children's Services. You can lose custody of your children if you don't.

If you get temporary custody, the judge will still let the other parent visit the children. Most of the time, **the other parent can visit** every other weekend. The weekend starts Friday at 6:00 PM and ends Sunday at 6:00 PM.

Has your abuser been charged with child abuse? **OR** have people have seen your abuser hurt or threaten your children? Are they willing to testify about the abuse? Then you should tell the judge. The judge can say the other parent can't visit the children. **OR** the judge can order another adult to be there during the visits. Many people who abuse their partners also abuse the children.

Are you afraid to meet your abuser to give him the children? Then ask that the pick up and drop off be at your local police station. Or it can be at another public place. That way you can call for help if you need to. You could have a friend or relative pick up or drop off the children. **Don't** go to your abuser's home. **Don't** let your abuser come to your home to get the children. Take another adult with you to pick up or drop off your children.

Child support money

Ask for child support. If you get temporary custody, the judge will usually make your abuser pay child support. This can be paid through the court or through the Child Support



office. This gives the court a record of when your abuser pays the child support. And you will have less contact with your abuser. Does your abuser have a steady job? Then you can ask that child support be taken out of his paycheck. This helps you get your child support on time.

What if you and your abuser have children but aren't married?

In Tennessee, the law says **the mother has custody**. This only changes if a judge gives custody to you and someone else. Is your abuser asking to visit the children? If you are not married, tell the judge. Is your abuser the children's father? Has the abuser signed a paper saying he is the legal father? Or has a judge said the abuser is the legal father? The abuser **can't** visit the children if he isn't the **legal** father.

Want to know more about making someone the legal father?

Call **1-800-457-2165** and ask the Tennessee Paternity Acknowledgment Program. **OR** talk with a private lawyer.

Step 2 - Temporary Order of Protection

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

Before the hearing the Judge or other court official reads your petition. What if the abuse is serious and you need protection right away? Then the official signs the Ex Parte Order of Protection. Make sure you **get a copy** of the order. **Always keep it with you.**

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.

After the Judge signs the Order, the Sheriff's Office will find the abuser. When they do, they will read the petition and the Order of Protection to the abuser. They will tell him or her



when the hearing will be. This is called being **served**. There may be problems giving your abuser the petition and order. Call the court clerk's office to see if your abuser was served.

Does your abuser live out of state? Then the Secretary of State's office can send the order by registered mail. The court clerk will give the Secretary of State's office the papers they need. **Do you have to pay for this?** No. It's free.

Keep your ex parte order with you at all times. Give a copy to your neighbors, boss, landlord and your children's schools or day care. Tell them to call the police if the abuser comes around.

If your abuser comes around you before he/she is served, call the police. The police can serve your abuser with a copy of the Petition and Order of Protection. What if you give the police your copy? Then go back to the court clerk and get another certified copy.

What if the abuser hits or threatens you or your children again? Once the abuser knows about the Ex Parte order of Protection, you can have them **arrested on the spot**. "On the spot" means you do not need a warrant.



Warning! The abuser may still hurt you even though you have an Order of Protection and the abuser has been served with a copy. You need to take action to protect yourself and children. Find a safe place to stay. Make a safety plan. See page 2. Stay away from where the abuser might be or go. **Need help finding a safe place?** Call **1-800-799-7233**. They can find you a safe place no matter where you live.

Step 3 - Getting 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 and truthful answers.

Bring to court any proof you have that the abuser hit or threatened you. You can use doctor's reports, police reports or pictures of your injuries. Bring as



witnesses anyone who saw or heard it happen or saw your injuries. Witnesses can also be someone who heard the abuser say what he did. Did you tell anyone what happened right after you were hurt? They may be able to help you at the hearing.

You can ask the court to **subpoena** (say "su-PEE-na") your witnesses. A subpoena tells a witness that they must come to court on a certain day. The court can serve the subpoena on your witnesses.

Collect pictures and other proof. Try to get pictures of what your abuser did to you, the children or property.

Write out what you want to tell the judge on note cards. You will only have a few minutes to tell the judge why you want an Order of Protection.

Want to know more about an Order of Protection hearing? Ask your shelter or court advocate if you can watch a video about it.

Step 4 - The Hearing

- Wear your good clothes to court. **Don't** wear shorts, blue jeans or low cut tops.
- Bring someone with you for support.
- Let the court advocate know you are there.
- Try to find a baby-sitter for your children. Children should not be there unless they are witnesses.
- Don't speak to your abuser or your abuser's witnesses. Sit as far away from your abuser as you can.
- Never argue with your abuser in front of the judge.
- **Don't curse.**
- Speak respectfully to the judge. When talking to the judge say, "Your Honor."
- Bring witnesses who know about your situation.
- What if your abuser brings a lawyer? Then at the beginning of the hearing ask the judge for a "continuance." This changes your hearing to another day. Tell the judge this gives you time to get a lawyer. The judge **doesn't** have to do this.



At the hearing, tell the judge about the abuse. Say why you are afraid. Give dates when the abuse happened. Say exactly what your abuser did to you. Start with the most recent abuse. Show the judge if

you have any marks or scars on you. Tell the judge about any abuse your abuser did to the children.

You must prove to the judge that the abuse happened. The judge has to believe you over your abuser.

You are your own best advocate. Most of the time, court advocates can't speak at the hearing. If you don't have a lawyer, you tell the judge how you were abused. Tell the judge if you have witnesses with you in court. You may want to use notes to help you remember the details.

What if you **forget** something? What if you **don't get a chance to speak**? Say, "Your honor, may I speak?"

Tell the judge if your abuser has any weapons.

If you get your Order of Protection, gun control laws may apply to your abuser.

Are you afraid your abuser will hurt you or your children? Then you don't have to tell your abuser your address. Tell the judge that you want your address to be a secret. Say you are afraid your abuser may find you and harm you or a child.



Step 5 - After the Hearing

Make sure your abuser leaves before you do. Ask someone to walk you to your car and follow you home.

Make copies of the Order of Protection. Give it to your local police department, school, day care and employer.

Always keep your certified copy of the Order of Protection with you. Then you can show the police if you have to call them. If your abuser comes around you, call the police. The police can arrest your abuser with or without a warrant.



Do the police think your abuser broke the Order of Protection? Then police can arrest your abuser on the spot. They don't need a warrant. What if the police **don't** arrest your abuser? You can file violations against the abuser in court. You don't need a lawyer.

Step 6 - Making the Order of Protection last longer

Look at the date your Order of Protection ends. Are you still afraid of your abuser? Then go back to court before the Order of Protection runs out. Ask the judge to make the Order of Protection last longer. It is best to do this at least 6 weeks before the Order of Protection ends. There will be another hearing. You will need to tell the judge why you are still afraid. You must say why you want the Order of Protection to last longer.

What if you have filed for divorce and you have an Order of Protection? Then ask the judge to make your Order of Protection permanent in the divorce. **Permanent** means it will never end.

Step 7 - Contempt Hearing

What if your abuser comes around you or hurts you? You can file for contempt of the Order of Protection on your own. Go to the clerk's office where you took out the Order of Protection. **OR** go to the clerk's office in the county where you were abused. **OR** you can hire a lawyer.

You will have to fill out a paper. Put the exact date and what happened. **Do not** just say "we were arguing." Write down what happened in detail.



Example:

I got an Order of Protection on December 24, 2006, in Smith County. My boyfriend, James Smith, followed me in his car on January 1, January 15 and January 17, 2007. He pulled up beside me on January 17 and pointed a gun at me. It was around 5:30 p.m. My best friend, Sue Jones, was with me and saw this. I told him to leave me alone.

At a contempt hearing, the judge decides if your abuser broke the Order of Protection. You have to have more proof in a contempt hearing. You have to prove your abuser broke the Order of Protection. You must have witnesses and other proof at this hearing. Witnesses may decide your case.

What happens if the judge decides your abuser broke the Order? The judge can make your abuser pay a fine. Or the judge can put your abuser in jail.

Are you afraid? Are you being threatened or hurt? Call the police. You don't have to have an Order of Protection to call.



Legal Aid Society
of Middle Tennessee & the Cumberland Mountains

Working Together. Doing Justice. Restoring Hope.

281 Industrial Blvd.
Tullahoma, TN 37388

1-866-898-0171

It's a free call.

Serving: Bedford, Coffee, Franklin, Grundy, Lincoln, Moore and Warren Counties. For other counties call **1-800-238-1443** for free.

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

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

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