

What happens after an Order has been issued?

A Domestic Abuse Protection Order can be honored everywhere you go-- in this state or any other state. Keep copies of the Order with you at ALL times! Place copies of the Order everywhere you and those who are protected go (i.e., work, school, home, each law enforcement agency, etc.). You may want to notify family, friends, neighbors and co-workers that you have a Protection Order. Do not have contact with the abuser (unless there are specific instructions in the Order which permit this). REMINDER: Once an Order is entered by the Court, the Order remains valid until it either expires or the Court enters an Order dismissing it. You cannot give the abuser permission to violate an existing Order!

If you believe that a violation of the Order has occurred, call 911 or go to law enforcement to report the violation! Tell law enforcement that you have a Protection Order and provide them with a copy of the Order! A violation of an Order may result in the abuser being arrested and charged with a criminal offense. If you decide not to pursue criminal charges for a violation, you have the option to file a motion for contempt in the court that issued the Protection Order.

WARNING: A Domestic Abuse Protection Order does NOT provide you with 24-hour personal security. You need to make arrangements for your own safety in the event of a violation of the Order or continued abuse. **CREATE A PERSONAL SAFETY PLAN!**

- Make prior arrangements for a safe place to go like a shelter, friend, or family and do not tell your abuser where you are going!
- Pack a "get away" bag and hide it. Include things such as: medication, baby items, birth certificates, valuables, marriage license, bank accounts, social security card, school records, etc.
- Keep "get away" money and spare car keys hidden.
- Memorize emergency phone numbers.
- Plan an escape route with your children.
- Review your safety plan regularly and make changes to it if you need to.

Remember: You can replace things! You cannot replace your life!

If you are in immediate danger, call 911!

How much will this Order cost and do you need an attorney?

A petition for a domestic abuse protection order can be filed at no cost to the petitioner (victim). A person seeking this kind of protection is not required to pay a filing fee, or any fees for serving process or subpoenas.

WARNING: Petitions for protection are taken very seriously by the court. The Judge may assess you the court fees if he or she believes that you have requested a Protection Order for reasons other than the need for protection from abuse (i.e., to get back at someone, make trouble for someone, to get rid of someone that has not threatened your safety, etc).

Any person has the right under the Mississippi Constitution to represent himself in court. Because of this, you are not required to hire an attorney in order to obtain protection from domestic abuse. However, please be aware that neither the court clerks nor the judge will be able to give you legal advice or to assist you in deciding the best course of action. If you feel that you need to talk with an attorney, or that you need assistance in completing the forms, please contact your local domestic violence program or legal clinic. The court clerk will have contact information for those types of services.

If you have any questions about domestic abuse or how a victim of domestic abuse can get assistance, please call the Mississippi Coalition Against Domestic Violence at 1-800-898-3234 or your local shelter program.

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The Mississippi Domestic Abuse Protection Order

Find out if one is right for you....

If you are a victim of domestic abuse, you may be entitled to a court order to help protect you from further violence.

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What is a Domestic Abuse Protection Order?

A domestic abuse protection order is a specific kind of restraining order that is available to individuals who are victims of domestic abuse. Abuse can include physical violence, or threats of physical violence, stalking or sexual assault. A domestic abuse protection order is different from other kinds of restraining orders because the court has the authority to grant very special kinds of relief available only to victims of domestic abuse.

Who qualifies for a Domestic Abuse Protection Order?

You may qualify for a Domestic Abuse Protection Order if you are being abused and your relationship with the abuser is one of the following:

- Spouse or former spouse
- Person currently living as a spouse or who formerly lived as a spouse
- Current or former dating partner
- Person related by blood or marriage and currently reside together or formerly resided together; or
- Person with whom you have a child(ren) in common

What types of Domestic Abuse Protection Orders may be issued?

Once a petition has been filed, there are several different types of domestic abuse protection orders that can be issued by the courts.

Emergency Domestic Abuse Protection Order

An emergency order may be issued by the court upon a finding that you are in immediate and present danger of abuse. You must indicate in your petition whether you are asking for emergency relief. This type of order is issued without prior notice to your abuser. Upon the filing of a petition which includes a request for emergency relief, regardless of whether the judge issued an emergency order, a hearing date will be scheduled, generally within ten (10) days, and your abuser will be summoned to appear in court for a hearing. The abuser will be served with a copy of the petition, emergency order (if issued) and a summons to appear for the hearing. An emergency order may be issued for no longer than ten (10) days. However, the court may extend the order as necessary, if the scheduled hearing must be continued to a later date. If you do not show up for the hearing, the order will expire and the petition dismissed.

Temporary Domestic Abuse Protection Order

A Temporary Order can be issued by a municipal or justice court following a hearing where the abuser has been given the opportunity to be present and heard and the Court has made a determination that abuse has occurred and you qualify for an order. Before an Order is issued, you will be required to present evidence (which may include your testimony, testimony of witnesses or physical evidence, like photographs) regarding the abuse that is alleged in the petition. Your abuser will also be able to present evidence. The court may order the abuser to pay the court costs. The duration of a Temporary Order is limited by state law to no more than thirty (30) days, so if you believe that you will need protection for an extended period of time, you must request a Final Domestic Abuse Protection Order by filing a petition in a court that can issue Final Orders.

Final Domestic Abuse Protection Order

A Final Order is similar to a Temporary Order, except that the Final Order can be issued for as long as the Judge determines is necessary. The same requirements regarding a hearing and evidence apply. Only chancery and county courts can issue Final Orders. If you are awarded temporary custody of minor children as part of your protection order, you must pursue a custody action separately within 180 days, or your custody provisions will expire.

REMINDER: A Judge determines whether you have met the burden of proof to qualify for a Domestic Abuse Protection Order. Domestic abuse protection orders are not available to a person who does not have one of these relationships with the abuser, or who has not shown the existence of abuse. If you are not in one of these relationships with the abuser or are not a victim of abuse, a domestic abuse protection order is not for you.

Is a Domestic Abuse Protection Order right for you? You, as the victim, are the only one who knows if it is safe to petition the court for a Domestic Abuse Protection Order. Ask yourself...

- Will having this Order make me safer?
- How will the abuser react to being served?
- Will the abuser obey the Order?
- Will the Order put me in more danger?

How do you begin the process of getting a Domestic Abuse Protection Order?

Before a court can issue a domestic abuse protection order, a victim of abuse (or an adult acting on their behalf if the victim is a minor or incompetent person) must file a petition in court. A petition is simply a legal document requesting the court to issue an order. Petitions must be completed by the victim (or adult acting on their behalf). Because a petition is a legal document filed with the court, it must be signed under oath. You must list specific allegations of abuse in your petition. Be aware that these allegations need not be limited to the most recent abusive incident, and that it is permissible to include allegations of past acts of abuse. You are not required to file criminal charges to be eligible to request a Domestic Abuse Protection Order; however, if you have filed criminal charges, you may want to attach a copy of the criminal complaint to your petition. Once completed, a petition for a domestic abuse protection order may be filed in one of the following courts: justice, municipal, county or chancery. If you are seeking emergency relief, you must file your petition in the municipal, justice or county court. The clerk or deputy clerk in each court can provide you with the necessary documents and printed instructions for completing a petition.

The next step in the process is to set a date for a hearing. You or your attorney will be responsible for obtaining a court date; however, the court clerk can provide you with instructions as to how to do this.

Once the petition is filed and the court date set, your abuser will be served with process (notifying the abuser of the allegations and the court date). Be aware that the abuser will be provided with a copy of the petition that you filed, as well as with any emergency orders the court has granted. You are responsible for making sure that you and your witnesses appear for the hearing. Subpoenas are available to ensure that witnesses appear to testify. If a subpoena is necessary, you should provide the court clerk with the name and address of each witness immediately.