

Civil Protection Orders: Protection Against Domestic Violence

Have you or your children been harmed, threatened, stalked, or intimidated by a spouse, former spouse, partner, or family member?

You may need a Civil Protection Order (CPO).



Presented by:

LAWO
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What is Domestic Violence?

Domestic violence is violence (or the threat of violence) between spouses, former spouses, partners, members of a family, or members of a household.

Domestic violence includes:

- Causing (or attempting to cause) injury, including sexual assault
- Making another person believe they are about to be seriously harmed
- Menacing or stalking behavior that makes someone believe they are going to experience mental or emotional distress, physical harm, or otherwise be in danger. It can occur in person, over the phone, or by electronic communication
- Committing menacing by stalking or aggravated trespass
- Abusing a child

Domestic violence generally does not include:

- Name-calling (without violence or a threat to harm you)
 - Accusations of cheating or having an affair
 - Threatening to take your child(ren), or refusal to return them
 - Threatening to call Children and Family Services (Child Protective Services)
 - Threatening to file a legal action against you, such as divorce, custody, or visitation
 - Threatening to destroy or take your personal property, such as keys, cell phone, or car
 - Drug or alcohol abuse without a prior history of abusive or threatening behavior towards you, your family, or household members
 - Symptoms of mental health issues without a prior history of abusive or threatening behavior towards you, your family, or household members
 - Use of reasonable parental discipline
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What is a Civil Protection Order (CPO)?

A Civil Protection Order is a tool that can help stop or prevent domestic violence. It is a court order that requires an abusive family or household member to behave in a certain way.

Depending on your situation, a CPO could:

- Stop an abuser from entering your home, school or place of employment
- Grant you custody of your children
- Require the abuser to stay away from your children
- Require the abuser to pay you monthly support
- Require the abuser to see a counselor
- Force the abuser to leave your home
- Grant you possession of your home
- Grant you use of a car and other property
- Forbid the abuser from owning or buying firearms
- Provide any other protections that the court considers fair and reasonable for your safety

If you are not sure whether you are experiencing domestic violence, you should speak to an attorney.



Who Can I File a CPO Against?

You can apply for a CPO against an abusive person if any of these conditions are met:

- You are currently living with the abuser as a spouse or partner
- You have lived with the abuser as a spouse or partner at any time during the past five years
- You are related to the abuser by blood or marriage, and you have lived with the abuser at some point during the past five years
- You used to be married to the abuser
- You have children with the abuser

After a CPO has been issued, the abuser cannot have any contact with you—even with your permission. If the abuser violates the CPO, they could be criminally charged with violation of a protection order.



Do I Need an Attorney?

It is usually best to have an attorney, especially if your abuser has one. However, it is not required.

You should seek the help of an attorney before you file for a CPO if:

- You have a pending custody case
- There is a pending criminal case
- The abuser is in jail or prison
- You have children with the abuser and your life is not in order (You do not want to risk losing custody while trying to get a CPO. An attorney can help with that situation)
- Child Protective Services is, or could become, involved
- You are concerned you may not be able to explain your side of the story to the court, especially in the presence of the abuser
- You intend to relocate outside of the county or state
- You and your child(ren) are at an address for your safety, and the abuser does not know where you are
- You think it's possible that the abuser might feel even more empowered over you if you do not obtain the CPO

You can find help by calling your local Domestic Violence Shelter or Victim's Advocate at the prosecutor's office to find out if there is a domestic violence advocate to assist you.

How Do I Apply for a CPO?

You can apply for a CPO at the Court of Common Pleas in the county where you live.

The steps are:

- **Contact the Domestic Violence Advocates in your county.**

Tell them that you want to apply for a Civil Protection Order. Most will be able to help you obtain the court documents, called a petition, that you will need. They may also help you fill them out, and may even help you take them to the courthouse.

- **If you are not working with a Domestic Violence Advocate, you may contact the Clerk of Courts office for the Court of Common Pleas/Domestic Relations Division in your county.**

Tell the clerk that you want to apply for a Civil Protection Order. They may give you the petition you will need to file in court or tell you where you can find it. Some courts may have it available online.

- **Fill out the petition.**

Be sure to include specific information about the most recent violent incident. You should also include any additional information about past incidents of violence. The Clerk of Courts will tell you how and where to return your petition to the Court.

- **If you are seeking custody of any children on the CPO, you must file a Parenting Proceeding Affidavit with the CPO petition.**

If you are also seeking child support for any children on the CPO, you must file a Financial Disclosure Affidavit with the CPO petition. Both forms are available through the Clerk of Courts.

How Do I Apply for a CPO?

- **The court will hold an emergency hearing.**

Under certain circumstances, the judge may give you a CPO immediately (called an ex parte, or one-sided order, meaning they have only heard your side of the story).

Types of information to tell the judge in an emergency hearing:

1. WHO is involved.

- Who is involved in the situation? (you) (abuser)
- What is/was your relationship with the abuser? (spouse) (co-parent)
- Who else lives with you? (children, including their ages) (parents) (roommates)

2. WHAT happened, WHEN and HOW it happened.

Explain everything you have written in your petition. Explain what is happening now, what happened in the past, and any other information about the abuser that concerns you.

3. Proof of the abuse. Include it with your petition.

Explain everything you may have attached to your petition. This is called your evidence or proof. Proof can include printed photos of injuries, printed photos of property damage, and/or printed screenshots of text messages from the abuser. Tell the court you want the photo(s) admitted into evidence. **Provide the following information:**

- When was the photo taken, and who took the photo?
- How did you get the photo (if you did not take the photo)?
- Is the photo content accurate?



How Do I Apply for a CPO?

4. What you would like to happen with your home, vehicle, and personal possessions.

- Explain where you live. Whose name is on the lease or deed? Were you married when you moved in?
- What will you need? Are you asking for exclusive use of the vehicle you have used as the family car during the marriage?
- Does the abuser have any of your or your child(ren)'s personal belongings that you need returned immediately? This can include clothing, personal hygiene products, and daily necessities such as phone chargers, medications, schoolbooks, and work-related items.

5. What you would like the court to decide about your child(ren).

- Do you want the court to grant you temporary custody of the children as part of the CPO?
- Do you want the abuser's contact with the child(ren) to be temporarily stopped for their safety?

Tell the Judge or Magistrate that you want to affirm everything that is in your CPO petition and that you want the petition to be included as part of the hearing record.



How Do I Apply for a CPO?

What happens after the emergency hearing:

1. The judge or magistrate will consider your petition.

- The judge or magistrate will either grant or not grant an emergency CPO.
- An emergency CPO is only in place until the court holds another hearing, called a full hearing, where the abuser will have the opportunity to respond to your petition.

2. The judge or magistrate will assign a date and time for the full hearing.

- The full hearing is usually scheduled about 7 – 10 days out from the emergency hearing.
- You must attend the full hearing. If you don't, your case may be dismissed.
- Your abuser may be present at the full hearing.

How Should I Prepare for the Full Hearing?

- **Review your petition and know what it says before going to court.**
 - **Be prepared to present information about your case.** You need to present everything that you presented at the emergency hearing. If you have access to recent police reports, medical reports or pictures that show abuse, you should gather and bring them to court.
 - **Bring any witnesses with you who have first-hand knowledge of the domestic violence.**
 - **Be on time and dress appropriately for court.**
 - **If you can arrange for childcare, it is best not to bring children to court with you.**
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What Could Happen in the Full Hearing?

One of the following situations could happen:

- **The abuser does not show up because the abuser was not notified of the hearing.**

If the abuser was not served with the notice of the hearing, and does not show up at court, your case could be continued. You will receive a new Court date and be asked if there is any other address (home or work) where the Court can try to serve the abuser with notice of the hearing. If you have an ex parte CPO, it will be valid through your new court date.

- **The abuser was notified but does not show up.**

Even though the abuser is not present, you will still have to attend the hearing and provide the court with the reasons why you need a CPO. This will likely be just like the emergency order when the abuser was also not present for that hearing. You will tell your side of the story, including the incident that caused you to file for a CPO, past acts of domestic violence, and what you are asking the court to grant you.

- **The abuser shows up and requests a continuance.**

Your case may be continued if the abuser would like to get an attorney. If this happens, it is in your best interest to get one, too. If the abuser shows up at court with an attorney, you may request a continuance to seek an attorney. If your case is continued, you will be given a new court date. If you have an ex parte CPO, it will be valid through your new court date.



What Could Happen in the Full Hearing?

- **The abuser shows up and agrees to a Consent Agreement.**

If the abuser shows up at court, you may be able to enter into a consent agreement, where the abuser agrees to the terms that you are requesting. If the abuser agrees, then no hearing takes place. In a consent agreement, the abuser is not admitting or denying that an act of domestic violence occurred; the abuser is only agreeing to the CPO and to stay away from you.

- **The abuser denies the allegations in your petition.**

If the abuser denies the allegations, the court will schedule a hearing to determine if you are entitled to have a CPO. The Court will either hold the hearing that day or schedule it for another day if more time is needed by the Court.



How Will the Hearing Proceed?

At a full hearing where the abuser shows up and denies the allegations, several things may happen:

1. You will tell your side of the story first.

You will be asked to describe recent acts of domestic violence by the abuser, along with your relationship with the abuser, why you are afraid of them, and the relief that you are requesting from the court.

Be specific when describing any physical acts of violence and include the dates and times of the incident(s). You should also explain any threats the abuser made against you.

If you have any witnesses, then you may also have witnesses testify as to what they observed.

2. The abuser (or their attorney) will have the opportunity to question you and your witnesses.

The abuser will then tell their side of the story.

3. The judge or magistrate will make a decision.

After both sides have given evidence, the judge or magistrate will decide if a CPO is to be granted. If the CPO is granted, you will be awarded the order.

This brochure provides only general information regarding protective orders for domestic violence, stalking and sexual abuse.

To protect yourself from a violent act, you should develop and follow a safety plan. It is important to get further information about your options from a domestic violence service provider or a victim's program.

For a list of shelters and programs in Ohio, please contact the Ohio Domestic Violence Network toll-free at (800) 934-9840 or www.odvn.org, or the National Domestic Violence Hotline at 800-799-SAFE (7233).

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