

HOW TO OBTAIN A PROTECTIVE ORDER

24 Hours a Day

This report will explain the Protective Order process in a simply manner. You should speak to an attorney to help you take full advantage of all the protections such an Order offers.

The key thing to remember is you can get one 24 hours a day. There are resources to help you not only in court but with other services you may need.

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OBTAINING A PROTECTIVE ORDER

24 hours a day

Domestic violence does not have to be endured. You can protect yourself. You may seek a protective order if the following occurred:

- Physical violence, even unwanted touching
- Threat of immediate physical violence
- Sexual assault, even if married
- Stalking
- False Imprisonment
- Mental abuse – if a child

The abuse does not have to occur in Maryland if you are a resident of Maryland. However, the court must be able to have authority to act against the person you are seeking protection from. An attorney can explain this further.

THE INTERIM ORDER

This is the Order you can request when the court is closed. You can get one 24 hours a day. You file at the Commissioner's Court of your county. Law enforcement can give you the location of the proper Commissioner's Court.

When filling out the paperwork, be as specific as possible about the abuse. To be granted a protective order there must have been actual physical harm, threats of physical harm or a sexual assault of any kind. The most common mistake I see is minimizing what happened. The other mistake is spending a lot of time explaining what led up to the incident. Summarize. If you don't tell the court how you were injured or why you fear for your safety, you will not get your protective order no matter how many pages of detail you write. Use specific words like “s/he hit me with a closed fist,” or “s/he threatened to kill me, then went in the kitchen and got a knife.” The more specific you are about the abuse, the more likely you will get a protective order.

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The Interim Order is good for 2 business days. You must return to the court before that time is up to get a Temporary Order. The date you must return will be on the copy of the Order given to you.

During this 2 day period, begin piecing together your case. Write down everything you can remember about the event that led you to seek the Protective Order in the order that everything happened. Do this as soon as possible. Your memory does not improve over time.

Once you have written down what happened, see what you can get to give you a timeline. Maybe you texted a friend “He’s screaming at me again, I am scared” at 1:05 am. Maybe you left a restaurant, and still have a receipt. Usually receipts have times on them of when you paid.

Write down a list of witnesses. Witnesses can be people you were with in the hours leading up to the events or they could be people who were present when the abuse occurred. Don’t assume a witness won’t be valuable at this stage, just make the list. Don’t worry if you don’t have any witnesses.

Get photos and medical records of your injuries, if any. The final hearing could be weeks away and your injuries might not be as visible. If you went to the ER or the doctor, those records could be important to prove how seriously you were injured.

THE TEMPORARY ORDER

If the court is open when you first go to file, you file directly for the Temporary Order rather than an Interim Order. You can file either in the District or Circuit Court of your county. If there is a pending custody or divorce matter in the Circuit Court at the time you request a protective order you must file in the Circuit Court. If you file in the District Court and it is denied you can appeal to the Circuit Court. You should discuss with an attorney whether to file in the District Court or the Circuit Court.

The paperwork for obtaining the Temporary Order is the same as obtaining the Interim Order. Concentrate your detail on the actual harm caused or the fear created. You will then go before the Judge who will determine if you will be granted a Temporary Order.

At this stage, it is usually just you telling your story to the judge. Be clear and concise about what happened. Do not minimize the abuse. But do not exaggerate the abuse out of fear of not getting the Order. Again use specific words. Tell your story in a logical manner. Do not jump around to events. If you have any evidence such as pictures or medical records ask to present

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copies to the Judge. The Court may ask questions; answer as specifically as you can. The information you provide will only help the Judge to decide you need a protective order. If you have an attorney, the attorney will guide you through the story. Let your attorney ask questions to provide the information. The Court knows you are upset, so it is okay to be a little upset. But do not let your emotions get in the way of the ultimate goal -- getting the Order.

If the abuser is not present, the Sheriff will serve the person with the Temporary Order stating when the Final Order hearing will be held. Your copy of the Order will have the date and time of the Final Order hearing. If you do not already have an attorney, you should contact one as soon as you get the hearing date so the attorney has plenty of time to prepare for the Final Order hearing.

While awaiting service, make sure you have a safety plan. The Resources given below will help you to develop one. Given the difficulties in locating the other party, service can take a while. Temporary Orders are good for a week, but may be extended for up to 6 months. The Court will also tell you how to sign up for the VINE system so you do not have to keep coming back for final hearings until the other person has been served.

THE FINAL PROTECTIVE ORDER

This is a very important step. It is highly recommended that you have an attorney for this stage of the proceedings. The abuser will be at this hearing. You will have to tell your story, present any evidence, including any evidence you already gave the court, and question any witnesses you may have. Your story must be clear, coherent and convincing. Your attorney will know the best way to present the evidence and question all witnesses. Your attorney will also be the one to cross-examine the abuser. If you do not have an attorney, you will be the one doing the questioning. If your abuser does not have an attorney, s/he will be allowed to question you if you testify. Once the judge has heard from both sides, the judge will make a determination. To receive a Final Protective Order, the judge must believe by "preponderance of the evidence" -- meaning it is more likely than not -- that abuse occurred.

If you win, the abuser can be ordered to stay away from your home, your work, and other places you designate. The court will order no contact by the abuser, which includes phone, text message or email. The abuser also must **Call Elizabeth Pugliese at 703-231-0884 for a free confidential consultation with an skilled Maryland Family Law attorney or visit www.ep-lawyer.com for more information.**

surrender any firearms in the person's possession by Federal law. Family Emergency Maintenance may also be ordered if you cannot continue to pay the household bills. Custody of the children with a visitation schedule may also be determined. For a final custody determination, you must file in Circuit Court for custody.

The Final Order is good for up to one year. Any violations can result in criminal charges being brought against the abuser. If you are seeking a new Protective within 1 year of the expiration of a previous Protective Order, the Final Order can be good for up to 2 years.

AFTER THE YOU OBTAIN THE ORDER

Unfortunately, getting a protective order is not a magic piece of armor that will protect you. Make sure you have a safety plan. Keep a copy of the order with you at all times. If the abuser is ordered to stay away from your work, give a copy to your employer. If you work in another state from Maryland, register your order with that state. This is as simple as going to the court and asking them to register it for you. You may need a certified copy, but those easily obtained from the issuing court. Give a copy to your friends so they can help you. If there is a violation, call 9-1-1 immediately. Keep a log of any violations, if the police do not act immediately on the first violation. If the violations continue, contact the State's Attorney for your county to report them.

Also, the Protective Order does not address custody, child support, property issues or other such matters except on a temporary basis. You should speak to an attorney about pursuing any other related matters.

RESOURCES

The following organizations can help you with services you may need to separate from your abusive partner, including counseling, housing and other such needs.

Abused Persons Program
1301 Piccard Drive, Rockville, MD 20850
8818 Georgia Avenue, Silver Spring, MD 20910
981 Rollins Avenue, Rockville, MD 20852
240-777-4195

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House of Ruth Maryland

Toll-Free Legal Hotline: 1-888-880-7884

Main Office: (410) 554-8463

Baltimore District Court Office: (410) 235-6370

Hyattsville Courthouse: (301) 298-4219

Upper Marlboro Courthouse Office: (301) 952-4303

Montgomery County Office: (240) 777-9077

Silver Spring Courthouse: (301) 563-8578