



Third Municipal Division (Rolling Meadows Courthouse)
2121 Euclid Avenue, Rolling Meadows, IL
Phone: 847-818-2286

This important information was taken from the website www.Womenslaw.org.

What is an Order of Protection?

An order of protection is a court order that is designed to stop violent and harassing behavior and to protect you and your family from the abuser. Orders of protection may also be called protection orders. They offer civil legal protection from domestic violence to both men and women victims, as well as to minors.

Who is eligible for an Order of Protection?

You can file an order of protection against a family or household member who has committed acts of domestic violence against you or your minor child. A family or household member includes:

- A spouse or ex-spouse
- A boyfriend or girlfriend, or someone you date or used to date
- A parent, stepparent or grandparent
- A stepchild or child of yours, even if you're not married to the child's father or mother
- Siblings
- A person responsible for you if you are a high-risk or disabled adult
- A person related to you by blood or by marriage,
- A person who you live with or have lived with in the past,
- The mother or father or your baby, even if you have never been married to them or lived with them
- A person with whom you share or allegedly share a blood relationship through a child,
- A caregiver.

You can request an order of protection on behalf of yourself, your minor child, an incapacitated adult, or another household member.

Note: You may file for an order of protection against a **same-sex partner** - including someone you are dating or have dated, or someone you live or have lived with in the past.

Note: A **minor** can file for an order of protection on their own in most cases. However, it may be more difficult to do so when the minor is filing against a parent or legal guardian. In Cook County, there is a court rule that states minors must have a parent or guardian filing on their behalf.

What types of Orders of Protection are available? How long do they last?

There are three types of orders: **Emergency** and **interim** orders of protection provide temporary, short term protection. A **plenary** order offers longer term protection.

Emergency Orders. An emergency order can be obtained based solely on your testimony to a judge. The abuser does not need to be present. The judge must be convinced that you are in immediate danger, or experiencing emotional distress, or else the judge may not grant the order.

The emergency order will last until you can have a full hearing for a plenary order, usually within 14-21 days.

Interim Orders. An interim order offers you a bit more protection than an emergency order. You do not need to have a full court hearing to be granted an interim order. They are often used to protect you in between the time when your emergency order expires and your full court hearing takes place. However, your abuser or his lawyer must have made an initial appearance before the court OR the abuser must have been notified of the date of your court hearing, before you can be given an interim order. An interim order lasts for up to 30 days.

Plenary Orders. A plenary order of protection can be issued only after a court hearing in which you and the abuser both have a chance to tell your sides of the story. It provides the most protection and the longest-term protection.

A plenary order may last up to two years, and there is no limit on the number of times an order of protection can be renewed.

How can an order of protection help me?

A plenary order of protection can:

- Prohibit your abuser from harassing, abusing, stalking, intimidating, and interfering with the personal liberty of you and your dependents
- Order your abuser to leave your shared residence
- Order your abuser to stay away from your home, work, school or any other site you specify in the order
- Order your abuser to not contact you in any way (including phone, mail or through third parties)
- Forbid your abuser from taking or damaging your personal property or property that you co-own with the abuser
- Order your abuser to hand over any firearms in his possession to the authorities and forbid him from buying firearms.
- Force the abuser to reimburse you for losses suffered as a result of abuse, such as medical expenses, lost earnings, property damage, attorney's fees, moving and travel expenses, shelter and meals, cost of finding/recovering your children, counseling for you and your children
- Force the abuser to undergo counseling
- Force the abuser to pay you child and spousal support
- Grant you temporary custody of your children, and determine temporary visitation rights, if any
- Anything else necessary for your safety that you ask for

Whether a judge orders any or all of the above depends on the facts of your case.

What are the steps for getting an Order of Protection?

Step 1: Go to a circuit court and request a petition.

Go to the circuit court where you live, where the abuser lives, or where the abuse occurred.

Note that if you are requesting possession of the home you share, you should go to the court in the county where that home is located.

Find the circuit court clerk and request a petition for an emergency order of protection. Or if you are not in immediate danger, you may want to petition for a plenary order. The clerk will give you the forms, and may recommend that you work with a domestic violence legal advocate.

Step 2: Bring identification and information about your abuser. It is sometimes helpful to bring the following information about your abuser:

- a photo
- addresses of residence and employment
- phone numbers
- a description and plate number of your abuser's car
- history of drugs or gun ownership

Step 3: Fill out the petition.

Carefully fill out the petition. On the petition you will be the "petitioner" or "plaintiff" and the abuser will be the "respondent" or "defendant." Write briefly about the most recent incident of violence, using descriptive language--words like "slapping," "hitting," "grabbing," "choking," "threatening," etc.-- that fits your situation. Include details and dates, if possible.

Be specific. It will also be important to write any previous court action you have taken against your abuser.

Be sure to write your name and a safe mailing address and phone number. If you are staying at a shelter, give a Post Office Box, not a street address.

Note: You may ask that your address not be disclosed (given out). You may also ask that the school(s) you or your children attend not be disclosed.

If you need assistance filling out the form, ask the clerk for help. Some courts may have an advocate that can assist you. A domestic violence organization may also be able to provide you with help filling out the forms.

Step 4: A judge will review your petition.

After you finish filling out your petition, bring it to the court clerk. The clerk will forward it to a judge. The judge may wish to ask you questions as he or she reviews your petition. The judge will decide whether or not to issue the emergency order, and will set a date for a full court hearing for the plenary order. You will be given papers that state the time and date of your hearing for a plenary order.

Step 5: Service of process.

The abuser must be served with a notice of hearing and with any emergency or interim orders that a judge has granted you, before your abuser may be charged with violating the order. Only

official process servers, such as the police and other law enforcement personnel may serve the abuser in person. There is no charge to have the authorities serve the abuser.

Ask the court clerk or a domestic violence organization for more information about serving the abuser. Do *not* try and serve the abuser in person with the papers yourself. Your abuser may only be arrested for violating the order after s/he has been given notice that the order exists and is in effect.

Step 6: The Hearing.

You must go to the hearing. If you do not go to the hearing, your emergency or interim order will be canceled, and you will have to start the process over. If you do not show up at the hearing, it may be harder for you to be granted an order in the future.

If the abuser does not show up for the hearing the judge may still grant you a plenary order, or the judge may order a new hearing date.

What should I do before the hearing to prepare my case?

Contact witnesses who saw the abuse or your injuries.

Anyone can be a witness – a friend, family member, emergency room nurse, doctor, stranger, law enforcement officer, etc.

Some witnesses may not come to court unless they are given a subpoena which orders them to appear and testify. Ask the court clerk about the subpoena process. Let the judge know if the people you subpoenaed do not come to the hearing.

The judge may choose not to hear from a witness because of the short amount of time given to each hearing.

Get evidence and documentation to help you prove your case.

Evidence can include:

- What you or a witness says in court about the incident
- Medical reports
- Police reports
- Pictures of your injuries
- Household objects torn or broken by your abuser
- Pictures of your household in disarray after an episode of domestic violence
- Weapons used
- Tapes of calls you may have made to 911
- Certified copies of the abuser's criminal record
- Any records detailing financial exploitation, such as pay stubs, gambling records, repossession or utility shutoff notices, etc.
- Anything else to help you convince the judge you have suffered acts of domestic violence and need certain relief and protection

The judge will listen to your story even if you have no physical evidence or witnesses.

Practice telling your story.

You may want to make an outline or notes of the history of violence by your abuser. You may take notes to court with you to look at if you forget something, but the judge may order that the abuser be allowed to see the notes if you read from them.

Tell your story in your own words, but leave out details that have nothing to do with the violence or threats of violence. Also, rather than saying, "He [or she] hit me," tell the judge how you were hit, where on your body you were hit, and how many times. **Be specific.**

You may want to mention:

- The last two incidents of violence
 - The worst two incidents of violence
 - Whether your abuser has a gun or other weapons
 - Whether your abuser has threatened to physically hurt or kill you.
 - Whether your abuser has used financial resources inappropriately (gambling away income instead of paying household bills, for example).
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What should I do on the day of the hearing?

- Be on time
 - Have your witnesses there and ready. If you have subpoenaed witnesses and they are not present you should inform the judge.
 - Dress neatly
 - Speak directly to the judge; he or she will understand if you feel nervous.
 - Always address the judge as "Your Honor."
 - Be prepared to spend all day in court. (There may be hearings before yours.)
 - If your abuser comes to court with a lawyer and you are not represented, ask the judge for a continuance so you can look for a lawyer. A continuance reschedules your court hearing for a later date. If you have an emergency order, the judge can grant you an interim order to provide protection until the next court date.
 - Once your case is called, enter the courtroom and find a seat. It is your right to take another seat if the abuser sits next to you, and to receive help from court staff in keeping the abuser away from you.
 - Stand when the judge enters and sit when the judge or bailiff asks you to.
 - Relax and remain calm. Take deep breaths if you feel yourself getting tense. Never lose your temper in the courtroom.
 - Always tell the truth
 - If you don't understand a question, just say so
 - If you don't know the answer to a question, just say so. Never make up an answer.
 - If your abuser does not appear at the scheduled court hearing, the judge may continue with the hearing or s/he may reschedule the hearing for a later date. Sometimes a plenary order will be granted if the abuser does not appear at the hearing.
 - **Note:** *If the judge reschedules the hearing, make sure to ask the clerk if you need to reissue or extend your emergency order (if you have one) so that you will continue to be protected until the new hearing date.*
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What is the order of events in the courtroom?

- At the hearing, everyone who testifies will swear or affirm to tell the truth.
- You will tell your side of the story first.
- The judge and your abuser (or your abuser's lawyer, if he has one) may ask you questions. If you are scared to answer any of the questions, tell the judge.

- When you are finished telling your side of the story, your witnesses may speak. You (or your lawyer, if you have one) may ask them questions, and then the judge and the abuser will have a turn to ask them questions.
- The abuser will tell his side of the story. It may be very different from yours. The judge will ask questions, and you (or your lawyer) may also ask questions.
- The judge will make a decision after hearing both sides and considering the evidence.
- If the judge decides in your favor, s/he will sign your Order of Protection. This order will have boxes that the judge can check to order your abuser to follow specific rules (such as staying away from you and not contacting you). The order will also have a place for the judge to write in any additional rules s/he sees as necessary for your protection.
- The judge should also include the date of expiration for the Order of Protection.

You will be given a copy of the Order of Protection. Review it carefully before you leave the courthouse. If you have ANY questions about it, or if you believe something is wrong or missing, be sure to ask the judge or court clerk before you leave.

What can I do if the abuser violates the order?

Call the police or sheriff, even if you think it is a minor violation. The Illinois Domestic Violence Act requires that police take all reasonable steps to prevent further abuse to you, including arresting the abuser. The police need not witness the actual abuse, as long as there is “probable cause” (abuser calling or emailing you, coming near your home or you when ordered to stay away, or visible injuries or other evidence of violence).

It is a good idea to write down the name of the responding officer(s) and their badge number in case you want to follow up on your case. Make sure a police report is filled out, even if no arrest is made.

When the police arrive, show them a copy of the order of protection. If you don't have one, they can verify its existence through their police computer. Once they verify the order and that it has been served, they may arrest the abuser. If the order has not been served, they may serve the abuser, if the abuser is present. If the abuser refuses to leave, they may arrest the abuser for violation of the order.

If the police do not arrest him or file a criminal complaint, you still have the right to file for civil contempt for a violation of the order. It is a crime and contempt of court if the abuser knowingly violates the order in any way. A judge can punish someone for being in contempt of court. To file for civil contempt, go to the clerk's office in the courthouse where the order was originally filed, and ask for the necessary forms.

How do I change or extend my order of protection?

Only a judge can modify or extend an order of protection. You will have to go back to the court where the order was issued, and file a petition to modify the order with the clerk of court.

If you want to extend your order of protection, you must apply for an extension (a motion to modify the order) before your original order expires.

Emergency orders can be extended by a judge one or more times for an additional 14-21 day period.

Interim orders can be extended by a judge one or more times for a period of 30 days.

There is no limit on the number of times a particular plenary order can be reissued to a victim.

What happens if I move?

Your order is good throughout IL and the United States. If you do move within the state, it might be a good idea to call the clerk to change your address.

Additionally, the federal law provides what is called "Full Faith and Credit," which means that once you have a criminal or civil protection order, it follows you wherever you go, including U.S. Territories and tribal lands. Different states have different rules for enforcing out-of-state protection orders. You can find out about your state's policies by contacting a domestic violence program, the clerk of courts, or the prosecutor in your area.

If you are moving out of state, you should call the battered women's program in the state where you are going to find out how *that* state treats out-of-state orders.

If you are moving to a new state, you may also call the National Center on Full Faith and Credit (1-800-256-5883, ext. 2) for information on enforcing your order there.

Note: Civil protective orders may not be enforceable on military bases, and military protective orders may not be enforceable off base. Please check with your local police department, court clerk, and/or domestic violence advocate for more details.

References:

Womenslaw.org (2006) [on-line] How to Get and Order of Protection. Available at http://www.womenslaw.org/IL/IL_how_to.htm#What%20is%20an%20order%20of%20protection? (accessed July 20, 2006)