

Order Of Protection – What Does It Mean

What is an Order of Protection?

An Order of Protection is an official court paper signed by the Judge which orders the perpetrator to stop verbally and/or physically abusing you by directing the perpetrator to stay away from you, your home, your place of work, your children and other family members, your children's school or daycare. It may specify specific times and places for visitation when access to children is in issue. The court can also order the perpetrator to pay restitution for damage to personal property damaged during the incident.

Are there different types of Orders of Protection?

Yes. The Order of Protection can either be a complete stay away (also known as Number 1) or a No Offensive Conduct (also known as Number 2).

What does "stay away" mean in an Order of Protection?

The term "stay away" in an Order of Protection directs the respondent to stay away from the house, workplace or school of the petitioner. If both you and your abuser were living together when you filed the Family Offense Petition, once the Order of Protection is served on the respondent, he/she will be permitted to retrieve personal belongings and should be escorted from the home by law enforcement. This is called a "removal order".

What does "refrain from" mean in an Order of Protection?

"Refrain from" in an Order of Protection means that the respondent must not commit certain acts, behaviors or forms of communication namely, mail, telephone, email, voicemail etc..that is harassing, annoying or alarming to the plaintiff.

Will I get an order of Protection the same day as I file the petition?

Depending on the emergency of the situation and the time that you filed the petition, you will be able to see the Judge the same day or the next day. Depending on the facts of your case (contents of your petition), a temporary Order of Protection may be granted by the Judge.

What will happen after I get my temporary order?

After you get your temporary order, the Court will give you another date to return, at which time the respondent (person against whom you filed the petition) will be present. You must appear on the return date. Otherwise, you risk your petition being dismissed.

Will the Judge/Court give me a copy of my temporary order?

Yes. After you appear before the Judge, you have to wait outside the courtroom until the court officer calls your name and give you the Order of Protection. You will also receive a slip of paper with a return court date.

What do I do with my order?

- Make several copies of the protective order as soon as possible.
- Keep a copy of the order with you at all times.
- Leave copies of the order at your home, workplace, children's school/daycare, in your car, with a neighbor or any other family/friend/s house that you or your children may frequent.
- Give a copy to the security guard/front desk where you live/work.

What happens on the return court date?

On the return date, the respondent will be given the opportunity to oppose the petition or consent to the Order of Protection. If the respondent requests for time to seek counsel, you will another return date. Your temporary Order of Protection will be extended to the next court date.

What happens if the respondent consents to the Order of Protection?

The temporary Order of Protection will be made permanent.

How long is a permanent Order of Protection?

In Family Court, a permanent or final Order of Protection will last from one to five years, depending on the severity of the facts of your specific case.

What happens if the respondent does not consent to the Order of Protection?

If the respondent does not consent to the order, a hearing will be scheduled and the Judge will make a final determination.

Will the Order of Protection be effective as soon as it is granted by the Judge?

No. The Order of Protection cannot be enforced until it is served on the respondent. Generally, the order of protection will be served by a police officer or sheriff's deputy.

What happens on the return court date if the respondent does not appear?

If the respondent was not served with the Order of Protection, the Court will be adjourned to another date to give time for service.

If the respondent was served and there is no appearance by respondent, the Judge may decide to have a hearing without the respondent to determine whether to grant a permanent Order of Protection. This hearing is called a Default Hearing.

Will an Order of Protection guarantee my safety?

Unfortunately, no. It is still important to have a safety plan for you and your children. Precautionary measure like changing the locks to your home, changing your phone number etc.. will be helpful in protecting yourself and your family.

Having a safety plan in place would include packing bag which can be easily accessed and transported with the following-

- Change of clothes for you and your children.
- Copies of court orders granting custody, visitation, support and protection.
- Important documents like birth certificates, passport, green card, medical records, school records, immunization records, social security cards, driver's license, insurance information, address book.
- Important phone numbers to contact in case of emergency.
- Keys to your house and car, along with car registration and insurance.
- Money (cash), credit card, checkbook.