

THE EX PARTE ORDER OF PROTECTION (TEMPORARY ORDER)

Frequently Asked Questions

DISCLAIMER: This information is not legal advice. It is for informational purposes only. You should consult a lawyer for legal advice specific to your situation as each case is different.

1. What is an ex parte order of protection (temporary order)?

An ex parte order of protection is a temporary order issued by a court to prohibit someone from abusing, stalking or sexually assaulting you. You can apply for an ex parte order of protection in circuit, chancery, or general sessions court. You do not have to have an attorney and will not be assessed any court fees. A legal advocate at a local domestic violence or sexual assault program may be able to assist you in filing the order. To locate a domestic violence or sexual assault program in your area, you may call the National Domestic Violence Hotline at 1-800-799-SAFE or 1-800-787-3224 (TTY) or the Coalition at 1-800-289-9018.

A copy of the order will be served on the person who is abusing, stalking or sexually assaulting you. A court hearing will be held within 15 days of service on the respondent. You must go to the hearing. At the hearing the judge will decide whether or not to give you an order of protection that can last for up to one year.

Please note that an ex parte order of protection is not the same as a restraining order in Tennessee. The ex parte order of protection allows the police to make an immediate arrest when the order is violated if the person who is abusing you knows about the order.

2. How can the ex parte order of protection (temporary order) help me?

The ex parte order of protection tells the person hurting you not to abuse, stalk, or sexually assault you or threaten to abuse, stalk or sexually assault you or your minor children. It can also prohibit the person hurting you from telephoning, contacting, or communicating with you in any way directly or through another person. If you and the person hurting you live together the ex parte order of protection can also make the person leave the shared residence.

3. If the person hurting me and I live together can the ex parte order of protection make the person leave the shared residence?

Yes, as long as the ex parte order of protection states that the respondent must leave the residence while you are waiting to have a judge hear your case. The judge will decide at the hearing who can stay at the residence.

4. Can my children be protected under the ex parte order of protection?

Yes. The ex parte order of protection will order the person not to hurt or threaten to hurt the children.

If you want the judge to order the person to stay away from your children, you should write down specific examples of how the person has hurt or threatened the children and/or examples of how the person has been violent in front of the children.

5. What if after I get the temporary order of protection the person who hurt me contacts me, hurts me, or threatens to hurt me?

You should call the police. If the person has been served with the order or has actual knowledge of the order, they can be arrested and have to stay in jail for 10 days and pay a fine of up to \$50.

6. Can I be arrested for calling the person or coming around the person who hurt me?

No. The ex parte order of protection is against the person who hurt you. For your safety it is best that you don't contact or go around the person who has hurt you. Please be aware that in some places criminal charges are being brought against victims who contact or come around the person who hurt them. If you are arrested for having contact with the person hurting you, you should ask for a lawyer. If you cannot afford a lawyer, you have the right to request that a lawyer be appointed for you.

7. Can I contact the person who hurt me and allow the person who hurt me to come around me?

For your safety it is best that you don't contact or go around the person who has hurt you. Even if you contact the person or give him or her permission to come around you, the order remains in effect and the person can be arrested for being near you. If the ex parte order of protection prohibits the person who hurt you from coming around you, you should go back to court if you want to change the order and ask the judge to change it. Only a judge can change the order.

8. The person who hurt me was arrested for hurting me. I received a paper called "Order Granting Bail for Abuse Cases." Is this paper the same as an ex parte order of protection?

No. It is not the same as an ex parte order of protection. An Order Granting Bail for Abuse Cases will only keep the person who hurt you away until the criminal case goes to court. You should get an ex parte order of protection in addition to having the Order Granting Bail for Abuse Cases. At the hearing on the ex parte

order of protection, the judge may issue an order of protection that will last for up to a year and can be extended after that.

9. An ex parte order of protection was not granted in my case. What happens next?

The court should still have a hearing on the petition for the order of protection. The judge will decide at the hearing if you should receive an order of protection that can last for up to a year.