

# ORDERS OF PROTECTION

## 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 county handles cases differently.

### 1. What is an order of protection?

An order of protection is an order issued by a court to prohibit someone from abusing, stalking or sexually assaulting you. You can file an order of protection in circuit, chancery or general sessions court. You do not have to have an attorney and you 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 from the date the order is served. 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.

Some victims may get an ex parte order of protection (temporary order) before the order of protection is issued. Please see the FAQ on the ex parte order of protection.

### 2. How can an order of protection help me?

The judge can order the person who is hurting or threatening you to stay away from you for up to a year. The order tells the person hurting you not to commit abuse, stalk, or sexually assault you or threaten to abuse, stalk, or sexually assault you or your minor children protected under the order.

It can also order the person hurting you not to telephone, contact, or communicate with you in any way directly or through another person.

Other help available through an order of protection may include giving you custody of your children; ordering the person hurting you to give you money to help support you and your children; and giving you possession of a shared residence.

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

Yes. The judge will decide at the hearing who can stay at the residence. The judge's decision does not change the ownership of the property if there is a mortgage, and it does not alter any rental agreement. In some cases the order can make the person who hurt you help you with paying the house note or the rent. The judge can also make the person hurting you help you with expenses for finding alternate housing.

**4. Are my children protected under the order of protection?**

Yes. The 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. Can I get child support for my children if the abuser is their parent?**

Yes. The judge should set child support according to the Tennessee Child Support Guidelines. Some judges may ask you to go to another court for child support.

**6. Can the order of protection protect my pet?**

Yes. Pets can be included in the order of protection. The judge can direct the care, custody, or control of any animal owned, possessed, leased, kept, or held by either party or animal or residing in the household to you or to an appropriate animal foster situation.

**7. Can the person who hurt me have a firearm?**

No. The person cannot possess a firearm as long as the order of protection is in effect. The person must give any firearms to a person who is allowed to have them. The person must let the court know that the firearms have been given to someone else or that he or she does not have any firearms. If you think that the person still has firearms, contact the police.

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

Get to a safe place and contact police immediately. Document all violations including emails, phone calls, stalking incidents, etc. The person may be arrested and go to jail for up to 11 months and 29 days or longer, depending on the crime.

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

No. The 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.

**10. I want to contact the person who hurt me and have the person to come about me. Can I allow the person to do that?**

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 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.

**11. 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 order of protection?**

No. It is not the same as an 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 order of protection in addition to having the Order Granting Bail for Abuse Cases. The order of protection can last for up to a year and can be extended after that.

**12. How long does the order of protection last?**

The order of protection can last for up to one year. You may ask the court to extend the order of protection for another year while the order is still in effect. If the person under the order violates it, the order of protection can be extended for up to five years for the first violation and up to ten years for the second violation.

**13. When should I ask for an extension of the order of protection?**

You should ask for an extension before the order of protection expires. If you want an extension because the person violated the order of protection, you should do so before the order of protection ends.