

# Questions & Answers About Protective Orders

By Iowa Legal Aid



## Where can I get help?

Clerks of Court can give you the forms to fill out to file for a protective order. But they cannot give you legal advice. If you have legal questions, a lawyer can help you with a petition to ask for a protective order.

Look in the yellow pages of the phone book to find a lawyer. Low-income Iowans can get free legal help from Iowa Legal Aid. Contact Iowa Legal Aid toll-free at (800) 532-1275 to find out which office serves your county. The number for callers speaking Spanish is (800) 272-0008.

**Si inglés es segunda idioma para usted y es de bajo ingreso, puede llamar a Iowa Legal Aid al (800) 272-0008.**

## Are there different kinds of protective orders?

There are two kinds of protective orders. A criminal no contact order is part of the criminal case for domestic abuse. The other kind of protective order is a civil protective order. Any victim of domestic abuse may be able to get a civil protective order. Just go to the Clerk of Court and ask for the form for protective orders. Fill out the form and give it back to the Clerk. The Clerk can let you know what the next step will be. Either you will see a judge or the Clerk will give your form to a judge. The need for a protective order is considered an emergency by the court. The temporary order the judge grants will be in effect until a hearing on the case can take place. Usually the hearing is 10 to 15 days after you first get the temporary order.

## Who can get a protective order?

The law limits who can get a protective order to people in certain relationships with the abuser, such as: a spouse; an ex-spouse; people living together at the time of the assault or who have lived together within one year before the assault took place; persons having a child together; or persons in an intimate relationship (a significant romantic involvement that does not have to include sex).

## What is domestic abuse?

The law says domestic abuse is an assault between certain types of people. An assault can be:

- physical contact that could hurt you or is meant to hurt you;
- threatening action with a weapon;
- pushing;
- hitting;
- kicking;
- holding;
- shaking; or
- unwanted sexual activity.

Threats along with the ability to carry out the threat may qualify under the law to get protective orders. Most of the time, verbal abuse alone is not considered domestic abuse under the law.

## **How can I prove abuse when I file a civil protective order? I called the police, but they said there were no bruises and refused to file charges.**

The civil and criminal cases are different. Even if the police won't file criminal charges, you can still proceed with the civil case. In the civil case, you tell what happened when you ask for a temporary protective order. At the hearing, you will have the opportunity to testify under oath as to what happened. Anyone else who saw what happened may also testify. Then the defendant may testify. The Judge decides whose witnesses and evidence are more credible.

## **How soon does the order take effect?**

The order takes effect as soon as the sheriff delivers it to the abuser. The law says the sheriff must get notice of an order within six hours.

## **What if there was a threat to "really hurt me" if I get a protective order?**

It is always important to plan for your safety. Before you file a protective order, it is important to have a safety plan. You can talk to someone at your local domestic abuse shelter. Call the Domestic Violence Hotline (1-800-942-0333), or talk to your lawyer. You may want to stay at a shelter for a time. The protective order cannot keep an abuser from continuing to break the law and hurting you. If you get a protective order and see the defendant near your home, call 911 immediately.

## **What about the kids?**

You can ask the court to give you custody of the kids. You can also ask the court to let you stay in the family home and keep the abuser away from the home. At the permanent protective order hearing, a system to allow visitation may be set up. Sometimes the exchange of the children can take place at the home of a family member. Sometimes the visitation can be supervised by a trusted friend. You may be able to get supervision by a social services agency for a small fee.

## **I want a protective order, but I still need to talk to him/her about the children.**

Make sure your lawyer, or the court if you don't have a lawyer, knows what you need. The protective order may allow for telephone contact about visitation or the children. It may also allow you to be at the same school functions.

## **What about clothes and things? If there is a protective order, how can the defendant/abuser make arrangements to get work clothes he or she needs?**

The court order may let the person come to your home, with a peace officer, to pick up personal items. If you prefer, you can ask to drop them off with a family member or friend.

## **My friend told me I would go to jail if I called or met with the defendant. Is this true?**

*It is important for you to read both the temporary and permanent court orders closely and follow what they say.* If it says no communication, then there should be no direct phone calls. You also should not ask family or friends to call on your behalf. Communication should be through your lawyer. You could be charged criminally with "aiding and abetting" if you contact the other party.

**This is only a general summary of the law. It is not meant to fully explain topics. Do not assume what you read here applies to your specific case. See a lawyer to get complete, correct, and up-to-date legal advice. The law often changes. This information was correct when it was written (September 2005). Do not assume what you see here is still correct when you read it. Remember, this is not a substitute for legal advice.**