



A PROTECTION ORDER GUIDE FOR EMPLOYEES

If you are experiencing domestic or sexual violence or stalking, you may decide to obtain a protection order to protect yourself or your family. This Guide will help you understand the process, and how the order could impact your job and your workplace.

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WORKPLACES RESPOND
TO DOMESTIC & SEXUAL VIOLENCE
A NATIONAL RESOURCE CENTER

SOME IMPORTANT TERMS

PETITIONER

A petitioner starts a civil or private (non-criminal) action by going to court and filing a request or petition. In this case, the petitioner is likely the victim of violence or stalking (but sometimes a perpetrator will initiate a petition and claim to be the victim).

RESPONDENT

A respondent “responds” to the petition, and in this case is the alleged perpetrator of violence or stalking. A respondent (called “defendant” in some jurisdictions, but that term is usually reserved for criminal actions) has a specific amount of time to answer the allegations of violence or stalking listed in the petition. The response can range from “I agree to stay away from this person” to “the violence never happened and I’m going to disagree with this petition and all allegations in it.”

INJUNCTION

An injunction is an order from a court directing one or more parties to refrain from committing certain acts, or directing them to do certain acts.

PROTECTION ORDER

A protection order is a form of injunction in which a civil or criminal court instructs a party to do or to stop doing something or else face civil or criminal penalties. A victim of violence (known as the petitioner) requests that the court tell the alleged perpetrator (known as the respondent or defendant) to stop harassing, stalking, contacting, abusing, etc., the petitioner.

EX PARTE

This means that only one party is present before the court. In seeking a protection order, initially only the petitioner is present, but the court may still order a temporary order, provided the respondent is given notice and the opportunity to appear in court and tell his or her side of the story.

CIVIL VERSUS CRIMINAL PROCEEDING

In a civil case, the petitioner generally determines whether the action will continue, and at any time can drop the action by filing a motion to withdraw. The state, tribe, or in some cases, the U.S. Attorney’s Office, initiate criminal cases after someone has been arrested by the police and charged with a crime. The prosecutor determines whether or not to prosecute the defendant. Thus, in contrast to a civil action, the state, tribe, or the U.S. Attorney’s Office are in charge of criminal cases, and victims of crimes are witnesses rather than parties to a case.

CONTEMPT

A party or person before the court (e.g., as a witness) can be held in contempt for failure to follow the court’s order or injunction. There are two kinds of contempt: civil and criminal. Civil contempt generally refers to a party’s failure to perform an action that a court has ordered, such as pay child support, or to refrain from doing something the court has forbidden, like contacting another person. The damaged party (e.g., petitioner) can ask the court to punish the party who is causing the damage. For civil contempt, the court’s goal is to make the petitioner whole, as if the harm had not been done. A contempt case ends when the offending party complies with the court’s order. Criminal contempt generally addresses actions or inactions in the court, such as a party’s disruptive behavior or refusal to testify. But in some jurisdictions, the failure to comply with a protection order is criminal contempt and can result in a jail sentence. In criminal contempt, the court’s motivation is to punish the offending party for his or her actions or inactions.

PROTECTION ORDERS AND THE WORKPLACE

HOW MUCH TIME AWAY FROM WORK WILL I NEED TO OBTAIN A PROTECTION ORDER?

You (the petitioner) probably will need several trips to the court over the course of several weeks or even months. In general, to obtain and enforce an order, you must complete the following steps (depending on the law in your location):

- ▶ Complete the forms, file the initial petition and then wait to see a judge. This can take all day in some cases.
- ▶ Return to court for a hearing after a respondent has been given notice of the requested order.
- ▶ If a respondent cannot be reached with notice of the proceeding, the court might need to reschedule the hearing, sometimes more than once, requiring your return to court.
- ▶ If a respondent violates an order, you may have to return to court to file a motion for contempt or testify in a criminal proceeding if the violation was a crime under the jurisdiction's law. You might need to return more than once to enforce other requirements of an order, such as payment of child support.
- ▶ If an order is about to expire, you might need to ask for an extension of the protective provisions when the violence has not stopped or you still fear the respondent.

You will need time away from work for each trip to court to obtain or enforce a protection order. Courts are typically open only during normal business hours, and the amount of time away from work will depend on the facts of your case as well as the court's workload.

HOW MIGHT AN ORDER OF PROTECTION IMPACT MY WORKPLACE?

This depends on the protection you seek and the protections available under state, federal, local, and/or tribal law¹. A petition for a protection order generally includes a "stay-away" provision, prohibiting the respondent from coming within a certain number of feet of the victim. A civil protection order may also include a list of places where the respondent is prohibited from entering, because these are places the victim frequents and the respondent does not have a necessity to visit. Examples include:

- ▶ your home (if you and the respondent shared a home the order may require that the respondent vacate the home);
- ▶ your workplace;
- ▶ anywhere you might frequent on a regular basis.

¹ For information on state laws regarding civil protection orders for sexual assault, domestic violence, and stalking, see http://www.americanbar.org/groups/domestic_violence/resources/statutory_summary_charts.html

In most jurisdictions, you may seek temporary custody of children, and if temporary custody is ordered, the order may also include stay away provisions that apply to the children, including prohibiting the respondent from coming to the child's school or after school care program. In most jurisdictions, the courts will specify a certain distance the respondent must remain from the prohibited places, e.g., "respondent is prohibited from coming within 500 feet of the petitioner's workplace located at 123 Main Street."

Additional provisions of an order can include:

- ▶ exclusive use of the parties' home (e.g., the offending party must leave the residence immediately; in some cases, law enforcement will evict the respondent)
- ▶ custody, visitation, possible safety provisions when parents exchange children at the beginning or end of visits, or independent supervision of a parent's visitation with children
- ▶ child support
- ▶ spousal maintenance (a.k.a. "alimony")
- ▶ bill payments (e.g., utilities)
- ▶ wage garnishment
- ▶ rental or mortgage payments
- ▶ forfeiture of guns or other weapons, etc.



I DO NOT WANT TO OBTAIN A PROTECTION ORDER, ALTHOUGH MY EMPLOYER WANTS ME TO GET ONE. CAN MY EMPLOYER REQUEST ONE ON MY BEHALF?

Some jurisdictions permit an employer to seek a general restraining order against a person, such as a disgruntled former employee or someone who causes disruptions or harasses employees at the workplace. However, some jurisdictions, including Arizona, Arkansas, and California², permit an employer to seek a protection order on behalf of a victim of violence whether or not the employee requests an order.

While a protection order might seem like an important tool for keeping the workplace safe, it is very important that your employer does not take any action without consulting you first. A protection order could create a serious safety risk for you and/or your family, and potentially other employees.

² See State Law Guide: Workplace Restraining Orders at <http://www.legalmomentum.org/what-we-do/violence/victims-of-violence-employment/state-law-guides>.

WHY COULD OBTAINING A PROTECTION ORDER PUT ME IN (MORE) DANGER?

A person experiencing domestic, sexual, or dating violence and stalking is always at risk. However, separation from a perpetrator (if you are or were in a relationship with the perpetrator) or the initiative to hold a perpetrator accountable for sexual or domestic violence or stalking may greatly increase the risk of retaliation or additional violence against you. It is best to discuss your situation with a trained advocate.

IF I OBTAIN A PROTECTION ORDER, HOW CAN MY EMPLOYER HELP? WHAT ABOUT MY UNION?

Employers and unions have a vital role to play if an employee informs them that he or she has obtained a protection order due to domestic or sexual violence or stalking. Your employer or union might be able to help you with the following concerns:

JOB DUTIES

If you feel comfortable doing so, talk to your employer or union representative about whether the protection order terms and conditions affect your job duties in any way, or if the violence necessitates a temporary or permanent revision of job duties. For example, if you work in a place that is open to the public, consider asking for a temporary reassignment of job duties to another location or area away from the public eye to increase your safety. If you work at a desk, consider asking for a new phone extension, or placing all calls into a voicemail system.

SAFETY AND SECURITY

Work with your employer and/or your union representative to maintain your privacy. Ask them to keep your information confidential, unless you consent to disclosure. Make sure that the employer, union, and your co-workers never give out your home address or contact information. You also may need changes to enhance your safety while at work. For example, you might ask for an escort to walk you to and from your car, or public transportation stop, and your worksite. Other options to consider include:

- Telecommuting
- Changes to direct deposits
- Technology safety, including restricting access to your work email, checking for spyware, and tracking devices
- Schedule changes, such as fluctuating work hours or a different shift
- Entering and exiting the workplace through different entrances



INFORMATION COLLECTION/DOCUMENTATION

Your employer and/or union representative can assist in saving or archiving emails, voicemails, text messages, etc., that relate to contact by a respondent. If a respondent violates a protection order on workplace property, your employer and/or union can help document the violation with the police or the courts.

SAFETY PLANNING

If you feel comfortable doing so, consider speaking to a domestic or sexual violence advocate/counselor, who is trained in safety planning. Safety planning is an ongoing process, not a one-time event, and you should consider every aspect of your day (and your family members' day) to assess safety concerns. Through the safety planning process, you may identify ways that your employer and/or union can help to make you (and your co-workers) safer, such as changes to your work schedule or other accommodations.

REFERRAL AND RESOURCES

Consult your human resources department, employee assistance professional (EAP), union representative or designated staff person for a list of local and national resources to assist victims.

WHAT IF I OBTAIN A PROTECTION ORDER AGAINST ANOTHER EMPLOYEE? WHAT IS MY EMPLOYER'S ROLE? WHAT ABOUT MY UNION?

If you and the respondent are co-workers at the same company, or members of the same union, the protection order will affect your safety and job duties. You should work with your employer and union representative to address your safety and workplace concerns.

The employer must provide a safe working environment, including enforcing the terms of the protection order. Actions to increase the safety of you and your co-workers should focus on restricting the respondent's work behaviors (such as changing their work hours, location and/or duties) and any appropriate discipline for the respondent.

Check to see if your workplace has a policy on violence or harassment. If it does, the policy should address procedures with regard to employees who perpetrate acts of violence against anyone at the worksite, including initiating an investigation. If you have information indicating that the respondent has used company time, materials or resources to abuse, harass, or stalk you, consider turning that over to the employer or the union.

If you and the respondent are members of the same union, the union has a duty of fair representation towards both of you. Make sure that the union representative and/or attorney handling your concerns is different from the union representative and/or attorney handling the respondent's concerns.

IF YOU EXPERIENCE DOMESTIC OR SEXUAL VIOLENCE OR STALKING IN YOUR LIFE

- ▶ Talk with a domestic or sexual violence or stalking advocate/counselor. An advocate can help you sort things out and take measures to plan for your immediate and ongoing safety. An advocate can also help you obtain referrals for other kinds of assistance and services.
- ▶ Consider obtaining a protection order if you have not done so and if you believe that it will improve your safety. Discuss this with the domestic or sexual violence advocate.
- ▶ Provide a copy of the protection order to your supervisor, union representative or the designated person in your workplace. Let them know what they can do to help you increase your safety at work.
- ▶ Keep a copy of the protection order with you at all times. If you drive, keep a copy in your car as well.
- ▶ Discuss with your employer and/or union what changes to your schedule, work location, or other matters might help increase your safety.
- ▶ Ask your employer and/or union about leave and accommodations to address matters related to the violence.
- ▶ Save all voicemails, emails, texts, or other contacts from a respondent that might be relevant in obtaining or enforcing your protection order or in other legal proceedings.
- ▶ Evaluate your whole day for safety risks, starting with your commute to work and including your commute home.
- ▶ Continue to safety plan and re-evaluate your safety and risks on a regular basis in consultation with your domestic or sexual violence advocate. You may also wish to contact your state or tribal coalition against domestic violence by visiting
- ▶ Know your rights. You can find information about state laws at www.womenslaw.org. More specific information about what your rights are in your specific jurisdiction can be obtained by contacting your state/tribal coalition or a local domestic violence organization. Consult an attorney to determine all of your options.
- ▶ Seek court assistance with other matters. Through a protection order, a judge may be able to require the perpetrator to turn over documents you need as well as order economic support and custody.

SAFETY PLANNING

If you experience domestic or sexual violence or stalking, it is not your fault. You deserve to be safe and treated with respect.

If you have been attacked or believe your safety is at risk:

1. Call 911 if you are in immediate danger.
2. Talk to someone you trust for help in calling the local or national domestic or sexual violence hotlines for information on safety planning and local resources.
3. Prepare a kit in case you suddenly have to leave or relocate, with:
 - ▶ Important papers and documents: birth certificate, social security card, drivers license, passport, medical records, lease, bills, etc.
 - ▶ House keys, car keys, cash, checkbook, credit cards, medicine, important numbers, cell phone.
 - ▶ If you are bringing your children, remember to pack their important papers, legal documents, and a change of clothes.

NATIONAL HOTLINES/RESOURCES

National hotlines can connect you to your local advocates and other resources and provide support.

For free help 24 hours a day, call:

National Domestic Violence Hotline

1-800-799-SAFE

(1-800-799-7233)

TTY 1-800-787-3224

To be connected to a local rape crisis center, call:

Rape, Abuse, Incest National Networks (RAINN)

1-800-656-HOPE

(1-800-656-4673)

For more free resources, including a safety card and the Workplace Toolkit, visit www.workplacesrespond.org



Workplaces Respond Partner Organizations:
Futures Without Violence, Legal Momentum,
Pennsylvania Coalition Against Rape and its
National Sexual Violence Resource Center,
National Sexual Assault Coalition Resource
Sharing Project (RSP) of the Iowa Coalition
Against Sexual Assault, American Bar
Association Commission on Domestic &
Sexual Violence, Corporate Alliance to End
Partner Violence, Victim Rights Law Center,
and Stalking Resource Center: A Program of
The National Center for Victims of Crime.

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