

Know Your Rights: What is an Order of Protection?

Domestic violence, also known as intimate partner violence, occurs when someone commits a network of behaviors with the intention of achieving and maintaining power and control over an intimate partner or family member. Domestic violence takes many forms; it may involve physical acts of violence, but it may also include emotional, verbal, sexual, legal, and financial abuses. The abusive behavior can lead the abused party to feel isolated, afraid, intimidated, anxious, and can cause the abused party to feel reliant on the abusive party for emotional, financial, and/or psychological support.

You may find that the only way to stop domestic violence is to involve the police or go to court to seek an order of protection. An **order of protection**, or OP, is a paper from a judge that makes rules about contact between people.

What can an Order of Protection say?

An OP can limit or prohibit a person's contact with another person. An OP can order a person to stay away from another person, their home, and their work. The OP may prohibit some contact or it may prohibit all contact. It may also prohibit a person from communicating with the other person by email, telephone, or through social media.

An OP can also order a person to refrain from committing any crimes against the other person. Sometimes, an OP can allow the abusive party to contact the other person but prohibit the abusive party from committing family offenses.

An Order of protection can also:

- Order someone to stay away from, your children or school or daycare
- Order an abusive person to vacate a home
- Order the abusive party to surrender of firearms
- Order the abusive party to only communicate with you for a specific reason. For example, if you have children in common, the OP may allow communication regarding the children only.

How do I get an Order of Protection?

You can file a written request (family offense petition) with the Family court asking for an order of protection. The person who requests the order protection (you) is the petitioner, the person who the order is against (the abusive party) is the respondent. The petition tells the Judge what the respondent did and what the Petitioner is asking the court to do.

Who can get an order of protection in Family court?

- A current or former spouse (husband/wife)
- Someone you are related to through blood or marriage
- Someone you had a child with
- Someone who you are/were in an intimate relationship with

Can I get an Order of Protection in Criminal Court?

Yes, if the abusive party is arrested, the District Attorney can request an Order of Protection on your behalf and simultaneously with family court.

Can I get rid of an order of protection?

It can only be changed by a judge.

Can I (the petitioner) violate?

No. Although for safety reasons you should support the enforcement of the OP by following its terms.

Is a New York order of protection good in another state?

Yes.

How long does it last?

A temporary order of Protection lasts until the next court date. A permanent order of protection in Family Court lasts up to 5 years/Criminal Court up to 8 years.

What happens if the abusive party violates the Order Protection?

In Family Court the abusive party can be arrested or brought back to court for other consequences such as jail or an extension of the order. In criminal court the abusive party can be rearrested and charged again, bail/probation revoked and possibly jailed.

Can the abusive party see our children?

Yes, if the court believes it is the children's best interest. If there are safety concerns the court can order supervised visitation. However, if the child (ren) are included on a criminal order of protection the abusive party cannot see the children unless the criminal judge makes an exception. The court will use language like family court can allow visitation.

Pro-Tip!

In certain situations, you may find that calling the police or going to court may not be your safest option. Consider speaking to a domestic violence advocate or attorney to assess safety concerns and risks.