

Indiana Legal Services, Inc

General Information

Using the law to fight poverty, empower clients, and improve access to justice.

www.indianalegalservices.org

General Information About Orders of Protection

An Order of Protection is also known as a Protective Order. It is an order you get from the court that tells someone to leave you alone. Of course, it is only a piece of paper, and it is not absolute protection against violence. However, it certainly can help. The police will have a copy of the Order of Protection, and will be able to respond quickly to assist you. You can call the police anytime you are hurt or in danger, but having an Order of Protection will help the police in responding to your call.

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When can you get an Order of Protection?

You can get an Order of Protection if you are a victim of:

1. Domestic or family violence;
2. A sexual offense; OR
3. Stalking.

Domestic or family violence is when a family or household member harms or threatens to harm you, places you in fear of physical harm, forces you to engage in sexual activity, or stalks you.

A family or household member includes a spouse, someone you are or were dating or had an intimate relationship with, someone who is related to you, etc. You can get an Order of Protection against this family or household member. You can also get an Order of Protection against someone who is *not* a family or household member if that person has committed a sexual offense or a stalking offense against you. You *cannot* get an Order of Protection against a non-family or non-household member if you are having a general dispute with that person that does not involve stalking or sexual offense. For example, if your neighbor (who is not a family or household member) has been threatening to harm you or your property, you would not be able to get an Order of Protection against this person (unless the threats involve sexual offenses or stalking).

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Who exactly is a “family or household member”?

A family or household member includes:

- a person you are or were married to;
- a person you are or were dating;
- a person you are or were having a sexual relationship with;
- a person who is related to you by blood or adoption;
- a person who is or was related to you by marriage;
- a person who has or did have an established legal relationship as a guardian, ward, custodian, or foster parent;
- a person who has a child in common; AND

- a minor child of any of the above relationships.

So basically, a family or household member is anyone who is or was a member of your family or with whom you had an intimate relationship. Some examples of a family or household member are spouses, former spouses, cousins, ex-in-laws, parents, children, and the parent of any of your children.

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Can I get an Order of Protection for my child?

Yes. A parent or guardian can file a petition for an Order of Protection for a child.

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What do I need to do to get an Order of Protection?

You must file a petition with the court saying why you need an Order of Protection. There are certain forms you must use to ask for an Order of Protection. Your local county clerk and/or your local prosecutor's office should have these forms for you. The clerk staff should also assist you in reading/filling out the forms. You can also get these forms at [Order of Protection Forms](#)

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What can a court order in an Order of Protection proceeding?

The court can issue a wide range of orders against the Respondent. The court can order the Respondent:

- Not to commit or threaten to commit family violence against you and specific family members;
- Not to harass, annoy, telephone, or contact you;
- To move out and stay out of your home (even if the Respondent owns the home);
- To stay away from your home, school, job, or any other place you go;
- To give you possession and use of the home, a car, and other essential personal property (and order the police to help you get the property).
- To have specified visitation with a child (or to have no visitation);
- To pay attorney fees, rent or mortgage payments, child support, medical expenses, counseling or shelter expenses, costs for damaged property, and/or court costs;
- To turn over weapons to the local sheriff during the time of the Order of Protection (and order that the Respondent cannot use or have a gun, ammunition or other deadly weapon).

The court can also issue other orders that are necessary for your safety and welfare. The terms of the Order of Protection will depend on what you ask the court to do and what evidence you present.

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Will I have to go to court after I file a petition?

Maybe. If the court believes that your petition shows domestic or family violence, the court *can* immediately issue an Order of Protection without first having a hearing. (This is called an “ex-parte order” when it is issued based only on your petition and no hearing is held). In an ex-parte Order of Protection, the court can order the Respondent:

- Not to commit or threaten to commit family violence against you and specific family members;
- Not to harass, annoy, telephone, or contact you;
- To move out and stay out of your home (even if the Respondent owns the home);
- To stay away from your home, school, job, or any other place you go;
- To give you possession and use of the home, a car, and other essential personal property (and order the police to help you get the property).

If the court issues an Order of Protection without scheduling a hearing first, either party can ask for a hearing within 30 days of the issuance of the Order of Protection. The court **MUST** schedule a hearing within 30 days of the filing of the petition for an Order of Protection if the court orders the Respondent to give you possession of the residence or other essential personal property. Thus, the court can issue an immediate ex-parte order that the Respondent leave your home, but then the court must schedule a hearing within 30 days to discuss this order. For some other orders, the court must first schedule a hearing. The court generally must *first have a hearing* before issuing orders on visitation arrangements, ordering payment of fees or expenses, or prohibiting Respondent’s gun use. The hearing must be held within 30 days of the filing of the petition for the Order of Protection.

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Do I have to pay to get an Order of Protection?

NO. The court cannot charge you a fee for filing an Order of Protection. The court can, however, order the Respondent to pay costs or fees if an Order of Protection is entered.

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How long does an Order of Protection last?

The Order of Protection will last for 2 years (unless the court orders a different date).

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What happens if I still need protection after the 2 years are up?

You can ask the court to renew your Order of Protection. The court has forms you can use to do this. You should file a Petition to Renew Order of Protection at least two weeks before the Order of Protection ends and say why you still need protection.

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Can the judge enter an Order of Protection against me too?

The judge MAY NOT enter an Order of Protection against you unless the Respondent files a separate petition for an Order of Protection and proves that he or she needs an Order of Protection against you.

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Can I get an Order of Protection against my spouse if I have not filed a divorce?

Yes, you can ask for an Order of Protection against your spouse at any time. However, if you later file for a divorce, the divorce court's orders about property and child custody or visitation will replace the Order of Protection court's orders on these matters. The Order of Protection will still be good, however on all other issues.

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Can I get an Order of Protection against my spouse if I have already filed a divorce?

Yes. You should file your petition for an Order of Protection in the court, which is handling your divorce. (The Order of Protection will be given a different cause number, but it should be joined with the divorce case).

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Am I safe once I have an Order of Protection?

Getting an Order of Protection is not absolute protection against abuse. Violation of an Order of Protection is a crime. However, some Respondents act violently even when they know they might get arrested. If you need an Order of Protection, it would be helpful for you to talk with someone at a local domestic violence shelter or similar agency about things you can do to reduce the risk of injury to yourself and/or your children.

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Can I talk to the person I have an Order of Protection against if I want to?

The Order of Protection you have against the Respondent does not stop you from doing anything. You may contact the Respondent and your Order of Protection will still be good. However, as a practical matter, if you continue to contact the Respondent, the court and the police may not take you seriously when you complain about the Respondent in the future.

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What if I don't need the Order of Protection anymore?

The court will dismiss an Order of Protection if the person who asked for the order wants it to be dismissed. You need to make a written or oral request to the court to ask the court to dismiss the Order of Protection.

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How can I get help in getting an Order of Protection or talking with someone about my situation?

The county clerk's offices and/or prosecutor's offices have forms that you should use to file for an Order of Protection, and they can help you fill out the forms. Your local domestic violence shelter may also be able to help you get the Order of Protection forms filled out and filed in court. The shelter may be able to give you other help as well. If you do not know what shelter serves your area, you can contact your local legal services organization or your local prosecutor's office.

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What is a no-contact order?

This is different from an Order of Protection. A judge can enter a no-contact order in a criminal case, a Chins (Child in Need of Services) case, or a juvenile case. A no-contact order is used to stop contact that might interfere with the court case. For example, if you were a victim of a crime and the suspect is being prosecuted, the court can enter a no-contact order so that the suspect cannot contact you in any way. It is possible to have both a no-contact order and an Order of Protection issued against the same person.

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What if I am having a problem with someone at work?

Under certain circumstances, you can get a Workplace Violence Restraining Order through your employer. However, you cannot get an Order of Protection unless the problem with your co-worker involves family violence, a sexual offense, or stalking.

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