

GENERAL INFORMATION ABOUT DOMESTIC VIOLENCE PROTECTION ORDERS

DEFINITIONS YOU NEED TO KNOW

Domestic Violence is when a family or household member uses physical violence, threats, intimidation and/or emotional, sexual, and economic abuse to maintain power and control over the other person, usually within an intimate relationship. Domestic Violence is most often a combination of psychological and physical actions; the physical results are just the most visible. Domestic violence is a pattern of conduct in which one intimate partner uses force or threats of force to control the other person.

For purposes of a Civil Protection Order, domestic violence means the occurrence of one or more of the following acts against a family or household member: attempting to cause or recklessly causing bodily injury; placing another by threat of force in fear of imminent serious physical harm; or committing any act with respect to a child that would result in that child being an abused child. Although many types of behavior are inappropriate or otherwise illegal, only behavior that meets the definition of domestic violence set forth in Revised Code section 3113.31(A) may result in a Civil Protection Order.

Ohio law has determined that some forms of abuse do not constitute criminal behavior or behavior requiring the court's intervention. For example, psychological battering, economic abuse, threats to remove children as part of a custody dispute, or verbal harassment without evidence of threats of imminent serious physical harm are not recognized by Ohio law as domestic violence that allows a petitioner to obtain a protection order or request that criminal charges be filed. "Imminent" refers to what is about to happen, or immediate danger.

When a family or household member tries to cause you bodily harm by hitting, pushing, beating, or physically hurting you, that is domestic violence. When a family or household member makes you afraid that you will be harmed, that is domestic violence. When a family or household member stalks, commits certain sexually oriented offenses against you, or forces sexual relations on you, that is domestic violence. When a family or household member abuses your children, that is domestic violence.

IN A CIVIL DOMESTIC VIOLENCE CASE:

Petition for a Domestic Violence Civil Protection Order ("CPO") is the document a domestic violence victim, the victim's parent or an adult household member of the victim must file with the domestic relations court or juvenile court - if the offender is under 18 years of age - to obtain a civil protection order against an alleged offender.

Ex parte Domestic Violence Civil Protection Order ("CPO") is an emergency order the court issues in response to the Petition for a Civil Protection Order after an *ex parte* hearing. The *ex parte* hearing is described in Form 10.01-A, Side 3.

Full Hearing Domestic Violence Civil Protection Order ("CPO") is the final order the court issues after a full hearing. The full hearing is described in Form 10.01-A, Side 3. The Full Hearing CPO replaces the *ex parte* CPO. Sometimes the final order issued by the court is a **Consent Agreement and Domestic Violence Civil Protection Order**, Form 10.01-J, upon terms agreed to by the parties.

Petitioner is the person asking or "petitioning" the court for protection. By filing the Petition for a CPO, YOU are the Petitioner.

Respondent is the alleged domestic violence offender. Petitioner seeks protection from the Respondent by filing for a CPO.

IN A CRIMINAL DOMESTIC VIOLENCE CASE:

Motion for a Domestic Violence Criminal Temporary Protection Order ("DVTPO") is the document that must be filed in a criminal case if a victim of domestic violence or victim of a sexually oriented offense wishes to obtain a protection order against an alleged offender. The criminal case must allege the offender committed negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any offense of violence, or any sexually oriented offense against a family or household member. The prosecutor has a form for this purpose.

Domestic Violence Criminal Temporary Protection Order ("DVTPO") is the order the court issues in response to the Motion for Temporary Protection Order. The DVTPO requires the offender to stop abusing and to stay away from the victim(s) named in the Motion for Temporary Protection Order. A DVTPO expires when the alleged offender's criminal case ends or when a new CPO is issued based on the same facts.

Alleged Victim is the person asking the court for protection in the Motion for a DVTPO.

Defendant is the person the Motion for a DVTPO is filed against. The Defendant is the person accused of the crimes of negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any sexually oriented offense, or any offense of violence against a family or household member.

FEES

UNDER FEDERAL AND STATE LAW YOU CANNOT BE CHARGED ANY COSTS OR FEES FOR OBTAINING A PROTECTION ORDER.

CIVIL PROTECTION ORDERS

What is a Domestic Violence Civil Protection Order (“CPO”)?

A CPO is issued by a domestic relations or juvenile court to protect a victim of domestic violence. A CPO is intended to prevent further domestic violence. It orders someone who has been abusive to do or not do certain things in the future. You may want to consider getting a CPO even if you have a DVTPO from a criminal court because a CPO lasts longer and provides more benefits – such as child custody and support orders. Domestic violence includes the commission of sexually oriented offenses. Effective June 17, 2010, if the person against whom the petition is filed (that is, the respondent) is under the age of 18 years, the petition is to be filed with the Juvenile Court.

Violating a CPO is a crime. If the Respondent violates the CPO, he or she may be arrested, jailed, and fined for disobeying the CPO. A CPO can remain in effect for up to five years. If the Respondent violates the CPO, you can call the police, go back to the domestic relations court to file a contempt charge, and go to the prosecutor's office to have the Respondent charged with the crime of violating the CPO.

Why get a Domestic Violence Civil Protection Order?

If you are a victim of domestic violence, a CPO may help you. Once domestic violence starts, the violence often happens more often and gets increasingly severe. A CPO may stop this cycle of violence because the court orders the Respondent to stop hurting or threatening you and your family or household members. A court can use a CPO to order the Respondent to stay away from you for up to five years. A CPO can give you time to "sort things out" and decide what you want to do next without having to be afraid all of the time. If your children have seen domestic violence, a CPO may give all of you a chance to get some help so that you and your children are safe.

Domestic violence is a crime. A CPO tells the Respondent you and the court are serious about requiring the Respondent to stop his or her abusive behavior and not to hurt or threaten you again.

A CPO sets some "rules" that the Respondent must obey while the CPO is in effect. These rules may require the Respondent to pay child or spousal support; give up possession of a home or car; and/or obey the court's orders about visitation.

A CPO issued by a domestic relations court may last longer than a DVTPO issued by a criminal court and can provide more kinds of help. You should know that if you get a CPO based upon the same facts as the DVTPO, the DVTPO from the criminal court will automatically end, even if the criminal case continues.

Who can get a Domestic Violence Civil Protection Order?

You can apply for a CPO if you are related to the Respondent by blood or marriage AND have lived with Respondent at any time; OR you used to be married to the Respondent; OR you have a child with the Respondent, whether or not you ever married or lived together.

You can also get a CPO for any member of your household.

You may be able to get a CPO if you share family or financial responsibilities with the Respondent, have or have had an intimate relationship with the Respondent, AND are living with or have lived in the last five years with the Respondent.

Remember that a CPO has limits. If you suspect that the Respondent will not obey the terms of a CPO, contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.

Do I need an attorney to obtain a Domestic Violence Civil Protection Order?

No, but you are often better off having legal representation in your CPO proceeding. Neither the clerk of courts nor other court employees can give you legal advice or complete the papers for you. Having an attorney represent you is especially helpful when your case involves contested custody and visitation and/or when an attorney represents the Respondent. If you cannot afford an attorney, contact your local legal aid office at 866-LAWOHIO (toll free), bar association, or Ohio State Legal Services (800-589-5888) for information on low cost or free legal representation.

Must there be a court hearing for me to obtain a Domestic Violence Civil Protection Order?

Yes. There are two hearings involved in a CPO case: the *ex parte* hearing and the full hearing.

Ex Parte Hearing: At this hearing only you are present. The Respondent is not present.

An *ex parte* hearing is held the same day a petition for Civil Protection Order is filed. If a Petition for a CPO is filed early enough in the day, an *ex parte* hearing is held that same day. At the *ex parte* hearing, you take an oath to tell the truth and a judge or magistrate hears your statement of what happened. If the judge or magistrate finds that the events you described meet the requirements of the law, the court will issue an *Ex Parte* CPO and schedule a full hearing. If the Respondent is asked to vacate the home in which you live, there will be a full hearing within 7 business days. Otherwise, a full hearing will be set within 10 business days. The Court can hold a full hearing only after the Respondent has been served with the *Ex Parte* CPO. You may need to fill out forms for the clerk of courts to cause service.

An *Ex Parte* CPO is a temporary order and is issued to stop current domestic violence and prevent its reoccurrence while the case is pending. It is only issued under emergency circumstances.

Full Hearing: The full hearing is the final hearing.

At this hearing, both you and the Respondent can testify. You must be present at the full hearing. You should bring any witnesses and other evidence to support your case. As the Petitioner, you have the burden to prove that you are entitled to the Order you are requesting. If the court issues a Full Hearing CPO, it remains in force until the date indicated in the CPO, with five years being the maximum.

If the Respondent does not show up for the full hearing, you can still obtain a final CPO. However, if the Respondent is not served with the *Ex Parte* CPO before the full hearing, the court postpones the full hearing until the Respondent is served. If the full hearing is postponed, the *EX PARTE* CPO remains in effect until the full hearing is held.

You may bring an advocate with you to the *ex parte* and full hearings for support. Some domestic violence shelters and victim assistance programs can provide advocates to go with you to these hearings. Contact your local domestic violence program or the Ohio Domestic Violence Network, 800-934-9840, for program and shelter information

DOMESTIC VIOLENCE CRIMINAL TEMPORARY PROTECTION ORDERS

Your local criminal court grants a DVTPO. You ask the court for a DVTPO when a criminal complaint is filed alleging someone has committed domestic violence or a sexually oriented offense against you. The DVTPO orders someone who has abused you to do or stop doing certain things in the future. Violating a DVTPO is a crime. If the Defendant violates the DVTPO, the Defendant may be arrested, jailed, and fined for disobeying the DVTPO. Violating a DVTPO is also a reason for the court to revoke the Defendant's bail. A DVTPO lasts only until the criminal case is ended or a CPO, based on the same facts, is issued by a domestic relations court.

RESOURCES

You can find information about Domestic Violence Civil Protection Orders in Ohio Revised Code Section 3113.31 and information about Domestic Violence Criminal Temporary Protection Orders in Ohio Revised Code Section 2919.26.

You may be able to find additional information about domestic violence at the following Websites:

Ohio Domestic Violence Network

www.odvn.org

Ohio State Legal Services Association's DV Resource Center

www.ohiodvresources.org

National Resource Center on Domestic Violence

www.nrcdv.org

PLEASE NOTE: Computer use can be monitored. It is impossible to completely clear all website footprints. If you are in danger, please use a safer computer that your abuser cannot access directly or remotely. For example, computers at a public library, internet café, domestic violence shelter, or community technology center, which can be found through www.ctcnet.org, would be safer computers.

HOW TO OBTAIN A DOMESTIC VIOLENCE CIVIL PROTECTION ORDER (“CPO”)

FORMS TO FILL OUT FOR A DOMESTIC VIOLENCE CPO

To obtain a CPO, you need the following documents. You can get all of these documents from the clerk of court’s office:

1. Petition for Domestic Violence Civil Protection Order Form 10.01-D. If the Respondent is under 18 years of age contact the Juvenile Court for forms and filing.
2. If you are requesting temporary custody of a child, Information for Parenting Proceeding Affidavit Form 10.01-F.
3. If you request financial support, you might need to fill out additional forms. These forms are not available from the clerk of court’s office.

Complete the Petition for a CPO form. Complete additional forms if applicable. Take these documents to the clerk of court’s office.

FILING THE PETITION FOR A DOMESTIC VIOLENCE CPO FORM

Present your completed forms to the clerk of court’s office for filing.

A clerk of court’s office employee helps you file your documents. You should know that neither the clerk of courts nor other court employees can provide you with legal advice or fill out forms for you.

There is **NO FEE** for filing the Petition for a CPO form.

Ask a clerk of court’s office employee or your local domestic violence assistance group about your local court procedures.

VICTIM ADVOCATE

Ohio law permits you to have a victim advocate with you at all times in court during protection order proceedings. Victim advocate means a person who provides support and assistance for a victim of an offense during court proceedings. Contact your local victim assistance program, local domestic violence program, or the Ohio Domestic Violence Network, 800-934-9840, for advocate information.

ATTENDING THE *EX PARTE* COURT HEARING

You must appear in front of a judge or magistrate for any *ex parte* hearing. The judge or magistrate listens to your testimony.

You should tell the judge or magistrate what the Respondent did that was domestic violence. Tell the judge or magistrate if the Respondent injured you, attempted to injure you, or threatened you.

Tell the judge or magistrate what you would like the court to do to help keep you and other family members safe and to protect the children. For example, you might ask the judge or magistrate to:

1. Order the Respondent to stay away from you;
2. Order the Respondent to be removed from your home;
3. Order the Respondent to get counseling;
4. Award you custody of any children;
5. Order the Respondent to have visitation only under conditions that will keep you and the children safe;
6. Order the Respondent to pay you child support and/or spousal support (alimony);
7. Order the Respondent to be prohibited from having any weapons;
8. Award you possession of a car for your use;
9. Award you possession of your personal property and the children’s personal property.

If the judge or magistrate determines that you or your family or household members are in danger of domestic violence the judge or magistrate may sign an *Ex Parte* CPO at the hearing.

If an *Ex Parte* CPO is issued, the judge or magistrate then sets a second hearing (called a "full hearing") within 7 to 10 business days to give the Respondent a chance to be heard. You must appear at the full hearing. Some issues, such as support, may be postponed until this second hearing. If no *Ex Parte* CPO is issued then the judge or magistrate sets a Pre-Trial hearing.

Take the signed *Ex Parte* CPO to the clerk of court's office and have it filed. Tell the clerk's office where law enforcement officers can find the Respondent to serve him or her with the *Ex Parte* CPO and other necessary papers.

YOU MUST ATTEND THE FULL HEARING

The full hearing on the Petition for a CPO will be set within 7 to 10 business days after the *ex parte* hearing. You **must** attend the full hearing. You may have an attorney present with you at the full hearing.

At the full hearing you must tell what happened again. This time you tell what happened in more detail. Bring with you any witnesses and evidence you have, such as photographs, answering machine tapes, other audio and video recordings, papers such as police reports, hospital records, etc, and any other evidence that will help you prove that the Respondent committed domestic violence against you or another family or household member. Tell the judge or magistrate why you fear the Respondent. You may call the Respondent as a witness to help you prove your case. Tell the judge or magistrate again what you want the court to do to help keep you and your family members safe. The Rules of Evidence apply at this hearing.

The respondent may have an attorney. You may want to ask for a continuance in order to get an attorney. The Respondent may also present evidence and call you as a witness. You may be asked questions by the Respondent or their attorney.

After the hearing, if the judge or magistrate decides you are entitled to a CPO, the court issues a new CPO called a "Domestic Violence Full Hearing CPO." This CPO is usually more detailed than the *Ex Parte* CPO issued after the first hearing. The judge or magistrate could also deny your Petition for a CPO if the court decides you are not entitled to a CPO. The law does not allow the court to issue a protection order against you, unless the Respondent has filed a separate action against you.

At the full hearing, you and the Respondent can decide to enter into a Consent Agreement instead of having a hearing in front of the judge or magistrate. If you decide to enter into a Consent Agreement, give the judge or magistrate the Consent Agreement and Domestic Violence Civil Protection Order form contained in the "How to Get a Domestic Violence Protection Order" packet. The court should also have a Consent Agreement and Domestic Violence Civil Protection Order form available.

ENFORCING YOUR CPO

Your CPO can remain in effect for up to five years. The court will set the expiration date.

Violating a CPO is a crime. If the Respondent violates the CPO, it is a crime. Immediately contact the police.

You may also bring a contempt action in domestic relations court for CPO violations. A contempt action is brought because the Respondent is disregarding the court's order. You must complete and file a contempt motion with the clerk of court's office to begin a contempt action against the Respondent.

CRIMINAL COURT

In addition to the *ex parte* hearing and full hearing in domestic relations court, you should attend all meetings and hearings as requested by the prosecutor and the court related to any criminal case filed against the Respondent.

Tell the domestic relations court about any pending criminal cases. Tell the criminal court about any pending domestic relations court cases.

Any Domestic Violence Criminal Temporary Protection Order (DVTPO) issued by a criminal court expires as soon as the criminal case is ended. A DVTPO issued by a criminal court also expires when a CPO is issued by the domestic relations court based upon the same facts.

**INSTRUCTIONS FOR COMPLETING THE PETITION FOR A
DOMESTIC VIOLENCE CIVIL PROTECTION ORDER**
Effective June 17, 2010, petitions against persons who are under the age of 18 years
should be filed with the Juvenile Court.

These instructions will help you to prepare the Petition for Domestic Violence Civil Protection Order. Only the domestic relations court in your county hears a Petition for a Domestic Violence Civil Protection Order. **Throughout the petition, you are called *Petitioner* and the person you are filing this petition against (the alleged domestic violence offender) is called *Respondent*.**

SOME HINTS BEFORE YOU BEGIN

- All forms must be typed or printed.
- When you write your name on the Petition, use the same name you use when you write your signature.
- Write your name and Respondent's name the same way throughout the Petition. EFFECTIVE JUNE 17, 2010, IF THE RESPONDENT IS UNDER 18 YEARS OF AGE, CONTACT THE HANCOCK COUNTY JUVENILE COURT.
- Fill out the Petition as completely and accurately as possible.
- If you have any questions about completing the Petition, ask the clerk of court's office for assistance or contact your local victim assistance program, domestic violence program, or the Ohio Domestic Violence Network at 800-934-9840.
- Under Federal and State Law you **cannot be charged any fees** to obtain a protection order.

FILLING OUT THE PETITION: Mark each instruction below after you read and complete it

- On the front page, leave the "Case No." line and "Judge" lines BLANK.** The clerk of court's office fills in this information.
- On the top left-hand side of the front page, fill in the requested information about yourself..**
- On the top left-hand side of the front page, fill in the requested information about Respondent as best you can.** You may use Respondent's work address if you do not know Respondent's home address. If you do not know Respondent's date of birth, leave that line blank. Do not attempt to obtain this information unless it is safe to do so. If you do not have an address for the Respondent the Clerk of Courts can refuse to accept the Petition for filing, or the court may deny an emergency order. EFFECTIVE JUNE 17, 2010, IF THE RESPONDENT IS UNDER 18 YEARS OF AGE, CONTACT THE JUVENILE COURT.
- Paragraph 1:** If you are filing the Petition to protect yourself, mark the first box and the box that describes your relationship to Respondent.
- Paragraph 2:** If you are filing the Petition to protect a family or household member, mark the box and fill in their name(s) and the other information requested in the chart. You may attach additional pages if you need more room.
- Paragraph 3:** State the date(s) of the incident(s) that caused you to file the Petition. Provide a brief description of what happened. You may attach additional pages if you need more room to complete your description. You may attach an affidavit instead of or in addition to the written description.
- Paragraph 4:** Indicate what action you want the court to take by marking the boxes next to the numbered paragraphs that apply to your situation.
- Paragraph 4(b):** Provide the address of the residence that you want Respondent to stay away from.
- Paragraphs 4(d) and (e):** If you want temporary custody of your minor children, or want the court to establish temporary visitation rights, list the names and birth dates of the children. If you have children whose custody or visitation will be at issue in this domestic violence case, you must also complete and file a Parenting Proceeding Affidavit, Form 10.01-F. There is a separate form and instructions for the Parenting Proceeding Affidavit, Form 10.01-E and Form 10.01-F.
- Paragraph 4(i):** If you want the court to grant you use of a motor vehicle, describe that vehicle.
- Paragraph 4(j):** Write any special court orders you believe would help ensure you and your family or household members' safety and protection.
- Paragraph 5:** If you need an *ex parte* (emergency) protection order mark the box next to Paragraph 5.
- Paragraph 9:** List ALL present court cases and pertinent past court cases or investigations that involve Respondent, you or a household member that may be related to you, your children, your family, or household members. This list should include all civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases. Write the case name, the court, the case number, if known, the type of case, and the result of the case. If the case is not over, write "pending." You may attach pages if you need more room.

SIGNING THE PETITION: Try to fill out the Petition before you go to the courthouse. AFTER YOU HAVE FILLED OUT THE PETITION, TAKE IT TO A NOTARY PUBLIC TO HAVE YOUR SIGNATURE NOTARIZED. **DO NOT SIGN THE PETITION UNLESS YOU ARE IN FRONT OF A NOTARY PUBLIC.** An employee of the Clerk of Courts office may be available to take your oath.

FILING THE PETITION: After you have your signature notarized, file your Petition at the clerk of court's office. The clerk of court's office will tell you when and where your *ex parte* hearing will take place. **There is no filing fee for a Petition for a CPO.**

3. Respondent has engaged in the following act(s) of domestic violence (describe the acts as fully as possible, add additional pages if necessary):

4. Petitioner requests that the Court grant relief under Ohio Revised Code 3113.31 to protect the petitioner and or the family or household members named in this petition from domestic violence by granting a civil protection order that:

(a) Directs Respondent not to abuse Petitioner and the family or household members named in this Petition by harming, attempting to harm, threatening, following, stalking, harassing, forcing sexual relations upon them, or by committing sexually oriented offenses against them.

(b) Requires Respondent to leave and not return to or interfere with the following residence and grants Petitioner exclusive possession of the residence: _____

(c) Divides household and family personal property and directs Respondent not to remove, damage, hide, or dispose of any property or funds that Petitioner owns or possesses.

(d) Temporarily allocates parental rights and responsibilities for the care of the following minor children and suspends Respondent's visitation rights until a full hearing is held (include names and birth dates of the minor children):

(e) Establishes temporary visitation rights with the following minor children and requires visitation to be supervised or occur under such conditions that the Court determines will insure the safety of Petitioner and the minor children (include names and birth dates of the minor children):

(f) Requires Respondent to provide financial support for Petitioner and the other family or household members named in this Petition.

(g) Requires Respondent to complete batterer counseling, substance abuse counseling, or other counseling as determined necessary by the Court.

(h) Requires Respondent to refrain from entering, approaching, or contacting (including contact by telephone, fax, e-mail, and voice mail) the residence, school, business, and place of employment of Petitioner and the family or household members named in this Petition.

(i) Requires Respondent to permit Petitioner or other family or household member to have exclusive use of the following motor vehicle: _____

(j) Includes the following additional provisions: _____

5. Petitioner further requests that the Court issue an *ex parte* (emergency) protection order under Ohio Revised Code 3113.31(D) and (E) and this Petition.
6. Petitioner further requests that the Court issue no mutual protection orders or other orders against Petitioner unless all of the conditions of Ohio Revised Code 3113.31 (E) (4) are met.
7. Petitioner further requests that if Petitioner has a victim advocate, the Court permit the victim advocate to accompany Petitioner at all stages of these proceedings as required by Ohio Revised Code 3113.31(M).
8. Petitioner further requests that the Court grant such other relief as the Court considers equitable and fair.
9. Petitioner lists here all present court cases and pertinent past court cases (including civil, criminal, divorce, juvenile, custody, visitation, and bankruptcy cases) that relate to the Respondent, you, your children, your family, or your household members:

CASE NAME	CASE NUMBER	COURT/COUNTY	TYPE OF CASE	RESULT OF CASE

I hereby swear or affirm that the answers above are true, complete and accurate to the best of my knowledge. I understand that falsification of this document may result in a contempt of court finding against me which could result in a jail sentence and fine, and that falsification of this document may also subject me to criminal penalties for perjury under Ohio Revised Code 2921.11.

Sworn to and subscribed before me on this _____ day
of _____, _____.

SIGNATURE OF PETITIONER

Address where Petitioner can be contacted:

NOTARY PUBLIC

Signature of Attorney for Petitioner (if applicable)

Name

Address

Attorney Registration Number

Phone Number

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