

# Domestic Violence: Can the Legal System Help Protect Me?

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## What is domestic violence?

Domestic violence is a pattern of physically and/or emotionally abusive behavior used to control another person with whom the abusive person has an intimate or family relationship.

## What is the legal definition of domestic violence?

Washington law says that domestic violence exists when a person:

- Hits you, assaults you (including sexual assault), or harms you physically in any way OR
- Causes you to fear immediate physical harm or assault

The person causing the harm or threatening you must be:

- A family member AND/OR
- Someone you live with or lived with in the past AND/OR
- Someone with whom you currently have or have had a dating relationship AND/OR
- Someone you have a child with

Here are examples of incidents that can cause you to fear immediate harm:

- Restraining your freedom of movement
- stalking you
- destroying your property

- making verbal threats about hurting you

◆ It does not matter that the person is a relative, lives with you, or has a child with you.  
**No one has the right to threaten or hurt you.**

## How can I protect myself and/or my children from domestic violence?

Both the criminal and the civil legal system can help. This publication and the attached table explain how to get help through the legal system.

◆ If you are currently a domestic violence victim, get help from your local domestic violence shelter. Shelters provide safety planning, temporary shelter, legal advocacy, counseling, and other services. To find the program nearest you, call **Domestic Violence Hotline: 1-800-562-6025.**

## How can the civil legal system help me?

Several types of court orders may help protect you and your children from domestic violence. The attached table explains:

- the types of orders available
- who may get them

- how to get them
- how much they cost
- other important information

## Orders for Protection

You can get an Order for Protection if you have been assaulted or threatened by:

- a family member
- someone you live with
- a spouse or ex-spouse
- someone you are dating

When you ask for an Order for Protection, you are “the Petitioner.” The person you want to have restrained is “the Respondent.”

## How do I get an Order for Protection?

◆ You do **not** need a lawyer.

There is no fee to file a petition for an Order for Protection. The forms are available in District, Municipal, and Superior Courts statewide. You can also use the [Washington LawHelp guided DVPO interview](#) to fill out and print your forms online. Check with your local court first to see if you must use other, local forms in addition to the state-approved forms the online interview provides. The forms are also on the [state courts website](#):

<http://www.courts.wa.gov/forms/index.cfm?fa=forms.contribute&formID=16>.

When you fill out a Petition for an Order for Protection, you must write down facts

under oath that support the existence of domestic violence. The acts you describe do not have to be recent if the past domestic violence makes you still afraid.

## What if I need the Order immediately?

You can get a Temporary Order for Protection immediately when you fill out the petition and a judge approves it. The sheriff will then give a copy of the Order to the Respondent. You will have a hearing for a permanent order two weeks later (sometimes called a “return hearing”).

You can ask for a Temporary Protection Order in Municipal, District, or Superior court. The clerk of the court where you file will tell you where the judge will hold the return hearing. The Respondent can go to the hearing to give his/her side of the story.

If the Respondent does not show up at the hearing, and you cannot prove that s/he got enough notice of the hearing, ask the judge to extend the emergency order until the Respondent can get notice and another hearing is scheduled. Otherwise, the order will not be effective. You will not have protection until the court enters another order.

## How can an Order for Protection help me?

- It can order the Respondent to stop having any contact with you.

- It can order him/her to stop threatening, harassing, stalking or molesting you or your children, and prohibit harassment in person, by phone, mail, or electronically.
- It can keep him/her from your home, work, school, or your children’s school or daycare.
- If you have children and/or pets together, it can prohibit the Respondent from having any contact with the children/ pets, or set a visitation schedule.
- It can order the Respondent to go to counseling or have a drug/alcohol evaluation.
- It can grant you the use or ownership of important personal belongings or a vehicle.

### **How do I use the Order for Protection?**

Carry a certified copy of your order with you at all times. You can only get your order enforced if you **call the cops** to report a violation.

### **Will the Order protect me outside of my county?**

Yes. Your Order for Protection will be entered in a statewide computer system. It is enforceable throughout Washington and in other states.

### **When will the Order for Protection expire?**

The court will enter the Order either for a fixed period or permanently. **The court can only enter Orders protecting children for one year or less.** You can ask the court to renew the order before it expires. The court **must** renew your order unless the Respondent proves that s/he is no longer a risk to you and/or your children.

### **What will happen if the Respondent violates the Order?**

It is a crime to violate an Order for Protection. The cops must enforce your order and arrest the Respondent.

### **Restraining Orders**

If you have filed a family law action such as a divorce, paternity, legal separation, non-parental custody petition, petition for a parenting plan, or a parenting plan modification, you may ask for a Restraining Order. Courts enter Restraining Orders at first on a temporary basis. They may become permanent at the end of the case.

A Restraining Order may:

- Order the Respondent to stay away from you and the children and exclude him/her from your home, workplace, daycare, or school
- Order the Respondent not to remove the children from the court’s jurisdiction
- Add other restraints as appropriate

You can get the Restraining Order enforced in the same way as an Order for Protection. If you report that the Respondent violates the order, the cops must enforce the order. They must arrest the Respondent.

### Anti-Harassment Orders

This order applies when you have been seriously alarmed, annoyed, or harassed. Parties involved generally were not married or living together, and have no children together.

You must prove that:

- the other person’s conduct would cause any reasonable person to suffer serious emotional distress AND
- the other person’s conduct was intentional or willful and served no legitimate or legal purpose

This is different from the definition of domestic violence. It may not have the same penalties.

◆ You usually file a petition for an Anti-Harassment Order in district court. Use our packet called [Antiharassment Forms and Instructions](#).

### What if someone is stalking me?

Washington state law defines “stalking” a few ways. **Stalking as a crime** happens when

- Someone intentionally keeps harassing or following you; AND
- You fear that the stalker wants to hurt you, another person, or your property or someone else’s property. Your fear must be reasonable under the circumstances; AND
- The stalker either:
  1. Means to frighten, intimidate, or harass you; or
  2. Knows or should know that you are afraid, intimidated, or harassed even if the stalker did not mean to scare, intimidate or harass you.

[RCW 9A.46.110](#). **If this describes your situation, call the cops.**

Stalking can also mean **cyberstalking**.

Washington defines this at [RCW 9.61.260](#).

**A new state law** creating stalking protection orders also defines stalking as repeated

- contacts
- attempts to contact
- monitoring
- tracking
- keeping under observation
- following another person

...and causing someone to feel intimidated, scared or threatened. [1383S.SI](#). If this describes your situation, you should file for a stalking protection order. Read our publication called [I Am Being Stalked. Can](#)

[the Legal System Help?](#) Our packet called [Stalking Protection Order](#) has forms and instructions.

## How can the criminal justice system help me?

Call the cops if:

- You have been hit or hurt
- You have been physically or sexually assaulted
- Your property has been damaged or destroyed
- You have been threatened with a weapon
- Someone is stalking you
- You are the victim of a crime
- someone who does not live with you has forced their way into your home

As a victim, you should call the cops. They are there for your protection. They must:

- make a report
- tell you in writing what your rights are as a domestic violence victim
- make sure you are not still in danger

When you are a crime victim, the person who hurt you is “the perpetrator.” The cops must arrest the perpetrator if

- S/he is your spouse or former spouse, someone you live with or have lived with, someone you are related to by blood or marriage, or someone with whom you have a child AND

- There is reason to believe the perpetrator has assaulted and hurt you within the last four hours

The cops may arrest the perpetrator even if the assault happened more than four hours ago, if there is evidence of an assault. If the cops arrest the perpetrator, s/he may be out of jail in a few hours. You will still need to protect yourself. Have someone come to stay with you or take your family to a friend’s home or a domestic violence shelter.

**◆ The cops must arrest the perpetrator even if you do not have an Order for Protection or restraining order against him/her.**

## Press Criminal Charges

If you did not call the cops at the time of the incident, you may do so later. Ask them to take a report and have charges filed. Generally, police reports go to your City Attorney or Prosecuting Attorney, who decides whether to file criminal charges. If they do not file charges, you are entitled to written notice and information on how to ask that they file charges.

## Testifying in a Criminal Trial

If the City Attorney or Prosecuting Attorney files charges, you will probably have to go to court to testify. The Prosecuting/City Attorney does not represent you. They represent the “State.” You take part in the criminal case as a witness for the State.

The Prosecuting/City Attorney should spend some time with you before trial talking about your testimony. Call them if you have any questions.

Many offices will give you an advocate to help you through the process. Ask for an advocate if you will have to testify. It might take months before a case comes to trial.

### **Ask for a No-Contact Order**

If you are afraid the perpetrator might hurt you again, tell the advocate or the prosecuting/city attorney you want a No-Contact Order. This court order prohibits the perpetrator from having any contact with you before the trial. If you report a violation of the order, the cops must immediately arrest the perpetrator.

◆ You should not contact the perpetrator **at all** when you have a no-contact order. The cops may not enforce it as well if you do.

A no-contact order is different from other orders we describe here. Read the description in the attached table.

### **The Court can Order the Perpetrator into Treatment**

Here are some examples of what the court can order if it finds the perpetrator guilty of a crime of domestic violence:

- Continue the No-Contact Order for a period of time

- Order counseling or alcoholism treatment
- Order the perpetrator to pay you for your medical expenses and property destruction
- Place the perpetrator on probation
- Order jail time, if the assault was severe or the perpetrator has a criminal record

### **Victim's Compensation**

You may be entitled to money from the Crime Victims' Compensation program if:

- Your injuries from the abuse required medical care OR
- Your injuries kept you from working

You must report to law enforcement within one year of the crime to be eligible for compensation. You have two years from reporting to law enforcement to file an application for benefits with the Crime Victims Compensation program.

◆ The State does **not** have to file charges or successfully convict the perpetrator of the crime for you to qualify for victim compensation.

Law enforcement officials must tell you about this law, or you can ask them about it. You may qualify for benefits even if you are still living with the perpetrator.

### **Important Information**

This publication provides general education, not legal advice. If you think you might

need a lawyer and your local legal services office cannot help you, you may be able to find a lawyer who will charge a reduced fee for your first appointment by checking the yellow pages of your phone directory under “Attorneys.” There may also be a listing for a referral program operated by your local bar association.

If you are low-income and live in Washington State outside of King County, get legal advice by calling CLEAR at 1-888-201-1014, between the hours of 9:10 AM and 12:25 PM, Monday through Friday.

Whether or not you are low-income, you can call the Legal Voice’s Information and Referral Line for more legal information, at (206) 621-7691.

The information in this publication is current as of the date of its printing. Laws sometimes change. Talk to a lawyer to be sure the information in this publication is correct.

◆ Domestic Violence Hotline is  
1-800-562-6025.

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This publication provides general information concerning your rights and responsibilities. It is not intended as a substitute for specific legal advice. This information is current as of November 2013.

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|                           | RESTRAINING ORDER  | DOMESTIC VIOLENCE PROTECTION ORDER   | DOMESTIC VIOLENCE NO CONTACT ORDER   | ANTI-HARASSMENT ORDER   | ANTI-HARASSMENT NO CONTACT ORDER   | ELDER ABUSE PROTECTION ORDER  |
|---------------------------|--|--|--|---|--|---|
| Who may get the order?    | A party to a court action where the other party is the spouse or is the parent of a child in common. | Victims 16 or older who were physically abused or threatened with harm by a person with whom the victim has or had a dating relationship, a marital relationship, or a child in common. Victims 18 or older can also get orders against family members or roommates, but people under 18 years of age cannot get those orders unless a parent or legal guardian files on their behalf. In all cases, a parent or legal guardian must file on behalf of a minor under age 16. | Victims of abuse related to abuser (as in protection order column) where abuser is formally charged with domestic violence against victim. | Victims of behavior aimed directly at them with the intent of seriously alarming, annoying, or harassing the victim without a legitimate purpose. Abuser can be a stranger. | Victim of harassment or the victim's family or household member where abuser is formally charged with a crime involving harassment (including stalking, threats, and other). | Victim age 60+ w/out the functional, mental, or physical ability to care for self who is a victim of actual or threatened abuse, neglect, or exploitation (improper use of victim's property or resources). |
| How do you get the order? | Filing for or responding to an action for divorce, paternity, or child custody modification.         | Must file in county where victim lives or has fled to avoid abuse. Follow clerk's instructions.  | Obtained as part of criminal prosecution for domestic violence. Victim should contact prosecutor to ask for order.                         | Must file in county where victim lives or has fled to avoid abuse. Follow clerk's instructions.   | Obtained as part of criminal prosecution for crime of harassment. Victim should contact prosecutor to ask for order.   | File at the court following the clerk's instructions.   |

|                             | RESTRAINING ORDER  | DOMESTIC VIOLENCE PROTECTION ORDER   | DOMESTIC VIOLENCE NO CONTACT ORDER  | ANTI-HARASSMENT ORDER   | ANTI-HARASSMENT NO CONTACT ORDER  | ELDER ABUSE PROTECTION ORDER   |
|-----------------------------|--|--|---|---|---|--|
| Where do you get the order? | Superior Court.  | Emergency:<br>Superior, Municipal, or District Court<br>Permanent:<br>Superior, Municipal, or District Court   | Municipal, District, or Superior Court.   | District or Superior Court.   | Municipal, District, or Superior Court.   | Superior Court.  |
| What can the order do?      | Restrain abuser from: entering a residence; harming or harassing victim or any child; contacting victim or any child; removing child from jurisdiction of court; disposing of property; and can award temporary custody. | Restrain abuser from: entering a residence; threatening or harming victim and any child; order abuser to leave shared home; attend treatment/counseling; award temporary custody. Award the use of essential personal effects, including pets, and use of a vehicle. | Restrain the abuser from any contact with the victim, including phone calls or letters. | Restrain the abuser from any contact with the victim; keeping the victim under surveillance; or coming within a certain distance of victim's home or workplace. | Restrain the abuser from any contact with the victim, including phone calls or letters. | Restrain the abuser from more abuse or exploitation; entering victim's home; contacting victim; selling or transferring victim's property; or can require an accounting of victim's income/assets. |
| How much does it cost?      | No fee after the underlying action is filed (with filing fee for that action paid or waived).  | No fee.  | No fee.   | Superior Court \$41<br>District Court \$51;<br>Waived for low income.   | No fee.   | \$110 - \$120, - can be waived for low income victim.  |

|                                | RESTRAINING ORDER  | DOMESTIC VIOLENCE PROTECTION ORDER   | DOMESTIC VIOLENCE NO CONTACT ORDER   | ANTI-HARASSMENT ORDER   | ANTI-HARASSMENT NO CONTACT ORDER  | ELDER ABUSE PROTECTION ORDER                                   |
|--------------------------------|--|--|--|---|---|--|
| How long does it last?         | Emergency: 14 days<br>Temporary: Until final hearing.<br>Final hearing<br>Permanent until changed by the court.      | Emergency: 14 days.<br>Final: 1 year (renewable) if a child is protected, permanent or for any fixed term if only protects an adult. | At least one year, and longer if the court orders. Usually until trial and sentencing are concluded. Post-sentencing provisions last for up to the time the sentence and probation are over. | Temporary: 14 days<br>Full: Up to one year, renewable.  | Court can order permanent if abuser is found guilty.  | Up to one year.  |
| Who represents the victim?     | Victim or an attorney.   | Victim or an attorney.   | Prosecuting attorney.  | Victim or an attorney   | Prosecuting attorney.   | Victim or an attorney  |
| What if the order is violated? | After abuser and police get order, mandatory arrest if order so states, plus possible criminal and contempt charges. | After abuser and police get order, mandatory arrest plus possible contempt and criminal charges.                                     | After abuser and police get order, mandatory arrest and a separate criminal charge.  | After abuser and police get order, possible arrest for misdemeanor, plus possible contempt charges. | After abuser and police get order, violation is a misdemeanor for which abuser may be arrested. | After abuser and police get order, possible contempt of court. |

\*All orders are confirmed by the police by entry into Washington State Criminal Information Computer (WACIC). This happens automatically when the court clerk sends the police a copy of any order signed by a judge/commissioner along with a Law Enforcement Information Sheet (LEIS). The court clerk will ask you to fill out the LEIS at the time you get your order.