

Domestic Violence

Can the Legal System Help Protect Me?

What is domestic violence?

It is a pattern of physically and/or emotionally abusive behavior used to control someone with whom the abuser has an intimate or family relationship.

How does the law define domestic violence?

Washington law says domestic violence happens when someone does one of these:

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

The person causing the harm or threatening you must be one of these:

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

What are some examples of things that can cause fear of immediate harm?

- restraining your freedom of movement
- stalking you
- destroying your property
- making verbal threats to hurt you
- making threats by text or social media

❖ **No one has the right to threaten or hurt you.** The abuser's relationship to you does not matter.

How can I protect myself and/or my children right now?

If you are currently a domestic violence victim, get help from the local domestic violence shelter. Shelters provide safety planning, temporary shelter, legal advocacy, counseling, and other services. To find the program nearest you, call the **National Domestic Violence Hotline: 1.800.799.7233**.

Can the civil legal system help?

Different types of court orders may help you and your children. The attached table explains:

- the types of orders
- who can get them
- how to get them
- how much they cost
- other important info

Can I get an Order for Protection?

Yes, if you have been assaulted or threatened by:

- a relative
- 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 the court to restrain is the Respondent.

How do I get an Order for Protection?

❖ You do **not** need a lawyer.

There is no fee to file for this. The forms are available in District, Municipal, and Superior Courts statewide. Check with your local court first. They may have their own forms you must use. The forms are also on the [state courts website](http://www.courts.wa.gov/forms/index.cfm?fa=forms.contribute&formID=16):

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

When filling out a Petition for an Order for Protection, you must list facts showing that Respondent has committed acts of domestic violence against you and/or your children. They do not have to be recent if the past domestic violence makes you still afraid.

Can I get the Order immediately?

You can get a Temporary Order for Protection immediately when you fill out the petition and a judge signs it. The sheriff then gives the Respondent a copy of the Order.

You will have a hearing for a permanent order two weeks later. Some courts call this a “return hearing.” The clerk of the court where you file will tell you where the judge will hold the return hearing.

What happens at the return hearing?

Respondent can give their side of the story. If Respondent does not show up at the hearing, and you cannot prove they got enough notice of the hearing, ask the judge to extend the emergency order until Respondent can get notice and you can schedule another hearing. Otherwise, you will not have protection until the court enters another order.

What does an Order for Protection do?

- It can order Respondent to stop contacting you.

- It can order Respondent to stop threatening, harassing, stalking, or bothering you or your children.
- It can order Respondent not to harass you in-person, or by phone, mail, or electronically.
- It can keep Respondent from your home, work, school, or your children’s school or daycare.
- It can ban Respondent from any contact with any children or pets you have together, or set a visitation schedule.
- It can order Respondent to go to counseling or have a drug or alcohol evaluation.
- It can award you 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 must **call the police** to report a violation.

Will it protect me outside my county?

Yes. They enter your Order for Protection in a statewide computer system. It is enforceable statewide and in other states.

When will the Order for Protection end (expire)?

It lasts either for a fixed period or permanently. **If it protects children, it can only last, at the longest, one year.** You can ask the court to renew the order before it expires. The court **must** renew your order unless Respondent can prove they are no longer a risk to you and/or your children.

What if Respondent violates the Order?

This is a crime. The police must enforce your order and arrest Respondent.

What is a Restraining Order?

You can ask for this if you have filed a family law action such as

- divorce
- paternity (parentage)
- legal separation
- non-parent custody petition
- petition for a parenting plan
- petition to change a parenting plan

Courts enter Restraining Orders at first on a temporary basis. They may become permanent at the end of the case.

What can a restraining order do?

It can:

- Order Respondent to stay away from you and the children
- Exclude Respondent from your home, workplace, daycare, or school
- Order Respondent not to take the children out of the court's jurisdiction
- Order other restraints as appropriate

The police must enforce a Restraining Order the same as a Protection Order. If you report that Respondent violates the order, the police must arrest Respondent.

What is an Anti-Harassment Order?

It applies

- when Respondent has seriously alarmed, annoyed, or harassed you

- generally when you were not married or living together, and have no children together

Can I get an Anti-Harassment Order?

Yes, if you can prove both of these:

- Respondent's conduct would cause any reasonable person to suffer serious emotional distress
- Respondent's conduct was intentional or willful and served no legitimate or legal purpose

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

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- ❖ You usually file for an Anti-Harassment Order in district court. Use [Antiharassment Forms and Instructions](#).
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What is stalking?

State law defines "stalking" a few ways.

Stalking as a crime happens when all these are true:

- Someone intentionally is harassing or following you.
- You fear that they want to hurt you or someone else, or someone's property. Your fear must be reasonable under the circumstances.
- The stalker either
 1. Means to frighten, intimidate, or harass you OR
 2. Knows or should know you feel that way even if they did not mean for you to feel that way.

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

Stalking can also mean **cyberstalking**. [RCW 9.61.260](#).

State law creating stalking protection orders says stalking is repeated

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

-and causing someone to feel intimidated, scared or threatened. [1383S.Sl.](#) If this describes your situation, you should file for a stalking protection order. [Stalking Protection Order](#) has forms and instructions.

What if the person has threatened me with a gun?

You can file a motion asking for a court Order that the person surrender their weapons OR banning them from owning weapons. Both of these must be true:

- You are a Petitioner or Respondent in a family law, anti-harassment, stalking, or protection order case.
- The person has used, displayed, or threaten to use a weapon on you OR in a felony.

[Getting a Court Order for the Surrender of Weapons: Family Law Cases](#) has forms and instructions.

Can the criminal justice system help?

Call the police if

- Someone has hit or hurt you
- Someone has physically or sexually assaulted you
- Someone has damaged or destroyed you property

- Someone has threatened you with a weapon
- Someone is stalking you
- You are the victim of a crime
- Someone who does not live with you forces their way into your home

The police 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

The person who hurt you is “the perpetrator.” The police must arrest the perpetrator if both of these are true:

- It is your spouse, former spouse, someone you live with or used to live with, someone related you to by blood or marriage, or someone with whom you have a child.
- They believe the perpetrator has assaulted and hurt you within the last four hours.

The police can arrest the perpetrator even if the assault happened more than four hours ago, if there is evidence of an assault.

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- ❖ The police must arrest the perpetrator even if you do not have an Order for Protection or restraining order against them.
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They arrested the perpetrator. Am I safe now?

The perpetrator may be out of jail a few hours after any arrest. Have someone stay with you or take your family to a friend’s home or domestic violence shelter.

Should I press criminal charges?

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

Do I need to testify in a criminal trial?

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

The Prosecuting or City Attorney should talk to you about your testimony before trial. 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 must testify. It might take months for a case to come to trial.

Can I ask for a No-Contact Order?

Yes. If you are afraid the perpetrator might hurt you again, tell the advocate or the prosecuting or city attorney you want one.

A no-contact order bans the perpetrator from any contact with you before trial. If you report a violation of the order, the police must immediately arrest the perpetrator.

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- ❖ You should not contact the perpetrator **at all** when you have a no-contact order.
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A no-contact order is different from other orders described here. Read the description in the attached table.

How will the court punish the perpetrator?

Here are some things the court can do if it finds the perpetrator guilty of a crime of domestic violence:

- Extend the No-Contact Order
- Order counseling or drug treatment
- Order the perpetrator to pay you back 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

What is victim’s compensation?

You may be entitled to money from the Crime Victims’ Compensation program if one of these is true:

- You needed medical care for your injuries from the abuse.
- Your injuries kept you from working.

You must report the crime to law enforcement within one year to get compensation. You have two years from reporting to law enforcement to apply to the Crime Victims Compensation program.

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- ❖ The State does **not** have to file charges or convict the perpetrator for you to get victim compensation.
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Law enforcement officials must tell you about this law, or you can ask them about it. You can get benefits even if you are still living with the perpetrator.

Important info

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, your local bar association there may operate a referral program.

If you have a low income and live in Washington State outside of King County, get

legal advice by calling CLEAR at 1-888-201-1014, weekdays 9:15 AM - 12:15 PM.

The info here is current as of the date of its printing. Laws sometimes change. Talk to a lawyer to be sure the info here is correct.

❖ **National Domestic Violence
Hotline** is 1.800.799.7233.

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 2018.

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| | RESTRAINING ORDER | DOMESTIC VIOLENCE PROTECTION ORDER (DVPO) | DOMESTIC VIOLENCE NO CONTACT ORDER | ANTI-HARASSMENT ORDER | ANTI-HARASSMENT NO CONTACT ORDER | ELDER ABUSE PROTECTION ORDER |
|------------------------------------|--|---|---|---|---|--|
| Who can get the order? | A party to a court action where the other party is your spouse or your child's other parent. | Victims 16 or older physically abused or threatened with harm by a person with whom you have or had a dating relationship, marital relationship, or child in common. A parent or legal guardian must file for a minor under age 16. | Victims of abuse related to abuser (as in DVPO column) where abuser faces prosecution for domestic violence criminal charges. | Victims of behavior aimed at you with the intent of seriously alarming, annoying, or harassing you for no good purpose. Abuser can be a stranger. | Victim of harassment, or the victim's family or household member. Abuser faces prosecution over criminal charges from harassment, including stalking, threats, and other. | Victim is age 60+ without functional, mental, or physical ability to care for self. 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 you live or have fled to avoid abuse. Follow clerk's instructions. | You can get this as part of criminal prosecution for domestic violence. Contact prosecutor to ask for order. | Must file in county where you live or have fled to avoid abuse. Follow clerk's instructions. | You can get this as part of criminal prosecution for crime of harassment. Contact prosecutor to ask for order. | File at the court. Follow the clerk's instructions. |
| Where do you get the order? | Superior Court. | Superior, Municipal, or District Court. | Municipal, District, or Superior Court. | District or Superior Court. | Municipal, District, or Superior Court. | Superior Court. |

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|-------------------------------|---|---|---|---|--|--|
| What can the order do? | Restrain abuser from entering a home; harming or harassing you or any child; contacting you or any child; removing child from court's jurisdiction; disposing of property. Can award temporary custody. | Restrain abuser from entering a home or threatening or harming you and any child. Can order abuser to leave shared home or go to treatment or counseling. Can award temporary custody. Can award use of essential personal effects, including pets and vehicle. | Restrain the abuser from any contact with you, including phone calls, email, text, or letters. | Restrain the abuser from any contact with you, keeping you under surveillance, or coming within a certain distance of your home or workplace. | Restrain the abuser from any contact with you, including phone calls, email, text, 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 and assets. |
| How much does it cost? | No fee after filing the underlying action. | No fee. | No fee. | <u>Superior Court</u> - \$41. <u>District Court</u> -\$51. Waived if you have a low income. | No fee. | \$110 - \$120, - can be waived for victim with low income. |
| How long does it last? | Emergency: 14 days. Temporary: Until final hearing. Final hearing Permanent until changed by the court. | Emergency: 14 days. Final: One year (renewable) if it protects a child. 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 over. Post-sentencing provisions last for up to the time the sentence and probation are over. | Temporary: 14 days. Full: Up to one year, renewable. | Court can order permanent if abuser found guilty. | Up to one year. |

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|---------------------------------------|---|--|---|---|---|--|
| Who represents the victim? | Yourself or an attorney | Yourself or an attorney | Prosecuting attorney | Yourself 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 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, which can lead to abuser's arrest. | 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 or commissioner 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.