

ORDER OF PROTECTION PROCESS OVERVIEW

Seeking an Emergency Order of Protection (EOP)

- 1) An Emergency Order of Protection (EOP) is the first step in the Order of Protection process. The person seeking the Order (the Petitioner) must convince a judge that this is an emergency situation that requires immediate relief. The judge must also be convinced that the abuse will get worse if the person being accused of abuse (the Respondent) knew of this action through Due Process.
- 2) Due Process is the rule that no one can legally put prohibitions on someone without giving advance written notice of a court date, a list of accusations, and the relief being sought on the court date. This is so that both sides have the opportunity to give their side of the situation before a judge makes a decision.

If an EOP is denied

- 3) The judge may choose not to grant the Petitioner's request for an EOP. In most cases the Petitioner may still seek relief – however, it won't be immediate.
- 4) The Petitioner may choose to set a court date and send the Respondent notice of this court date. Following Due Process like this requires a few additional legal actions, with which the advocates may assist. Prior to the court date, the Order of Protection is not in effect. Because of this, the Petitioner must consider her/his safety before deciding if sending notice is appropriate.

If an EOP is granted

- 5) If the judge grants an EOP, then it is a temporary Order with an Expiration Date between 14 and 21 days later. A Return Court Date is scheduled for this day, so that the Petitioner can come back and ask for the Order to be extended.
- 6) Immediately after the EOP is granted, the Petitioner must get a copy of the Petition, EOP, and Summons to the Sheriff's Office of the county where the Respondent lives or works. A Sheriff's deputy will attempt to serve the Respondent, usually within 24-48 hours. At the time of service, the deputy is required to review the prohibitions with the Respondent as well as notify the Respondent of the Expiration/Return Court Date. The deputy will then mail the Petitioner a Proof of Service form, which verifies that the Order has been served. This is a very important document to bring on the Return Court Date.

On the Expiration/Return Court Date

- 7) If the Petitioner chooses not to return, then the Order of Protection expires.
- 8) If the Petitioner chooses to return and has the Proof of Service, then s/he can ask for an extension of up to 2 years, called a Plenary Order of Protection (POP). The Petitioner may ask for any remedies requested in the Petition, or may ask that some remedies be lessened or removed. (The Petitioner may ask the judge for more restrictions to be added, but this may require additional legal actions.)
- 9) If the Petitioner does not have the Proof of Service and the Respondent is not present in court, then the Petitioner may seek a limited extension. In this case, an Interim Order of Protection (IOP) can be granted, which lasts 30 days so that service can be attempted again.
- 10) If the Petitioner does have the Proof of Service and the Respondent does not come to the Return Court Date, then the Petitioner is usually granted a Plenary Order of Protection (POP) by default.
- 11) If the Respondent comes to the Return Court Date, he/she can agree to the Petitioner's request for an extension or contest it. If agreed, then a Plenary Order of Protection (POP) is granted by agreement.
- 12) If the Respondent contests the extension, then there will be a hearing on the Return Court Date, unless either party requests and is granted a continuance to seek an attorney. The judge may deny a request for a continuance, so it is important to be ready for the possibility of a hearing.



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In the event of a hearing

- 13) In the case of a hearing, both sides may have attorney representation. The Respondent may hire an attorney – a public defender is not granted. If the State’s Attorney’s Office assisted the Petitioner with the Order of Protection (because of an active criminal case), then they will also represent the Petitioner in the hearing. If the Petitioner did the Order of Protection alone, or with the assistance of the Family Shelter Service Court Advocates, then the Petitioner is responsible for representing herself/himself in the hearing or hiring an attorney if s/he chooses.
- 14) During the hearing, both parties have an opportunity to give their side of the situation. Both parties may present evidence (i.e. text messages, emails, voice messages, etc.) to support their side, & may have witnesses submit testimony if they choose. Police reports are inadmissible in court, so you do not need to bring copies of them with you.
- 15) After hearing both sides and considering any evidence that is presented, the judge will decide whether or not to extend the Order & what remedies to grant.

24/7 HOTLINE: 630-469-5650

