



Orders for Protection and Harassment Orders

What is an Order for Protection?

An Order for Protection (OFP) is a court order to stop household or family violence. An OFP is not a criminal case. It takes place in family court. The court can order things that keep the abuser away from you and your home or order them to get counseling or treatment. The OFP can also have orders about child support, custody or parenting time (visitation).

What is family violence (domestic abuse)?

Family violence is when someone is hurting you physically or threatening you with immediate physical harm. This includes sexual violence and terroristic threats. Examples are hitting, throwing things at you, pushing, saying things like “I’ll kill you,” waving a weapon at you, killing your pets, or forcing you to have sex. Not letting you call 911 for help is also family violence.

Who can get an OFP?

You can get an OFP to stop abuse by any of the following people:

- Your husband or wife (you do not need to start a divorce to get an OFP)
- Your ex-husband or ex-wife
- Anyone you have a significant romantic or sexual relationship with
- Any blood relative
- Anyone you live with now, or have lived with
- Your parent
- Your child, if they are more than 18 years old
- The father or mother of your child or unborn child



If the abuser does not fit any of these categories, then go to the end of this fact sheet to learn about Harassment Orders.

I am a minor, can I get an OFP?

A minor can’t get an OFP on their own. You need an adult over the age of 25 to file for an OFP on your behalf. But, a minor who is 16 or older can file a petition on their own against a spouse, former spouse, or a person they have a child with.

Can I get an OFP for someone else who is being abused?

- You can apply for an OFP for a child in your family or household.
- If you are worried about a child in *someone else's* family, it is best to report the abuse to Child Protection first.
- If you are worried about abuse of an adult in someone else's family or household, call Minnesota Adult Abuse Reporting Center at (844) 880-1574.

Do I have to get an OFP to stop the abuse?

No. Even without an OFP, it is illegal for anyone to hurt, rape, or threaten you. It is also against the law for someone to stop you from calling 911 for help. But an OFP can make it easier to protect yourself. It tells the abuser that more threats or abuse will lead to arrest, criminal charges and maybe jail or a fine. OFPs make it easier for the police to arrest the abuser.

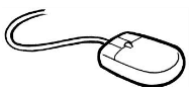


How do I get an OFP?

1. Go to the courthouse or call the domestic abuse office at the courthouse and tell them you want to file an OFP. There are domestic abuse programs that can help with the process. Their services are free and confidential. To find one in your area call the National Domestic Violence Hotline at (800) 799-7233 or (800) 787-3224 (TTY).
2. A court clerk or an advocate can give you the forms you need and help you file papers telling the court what happened, and what you want.

OR

Find [information and links](#) to forms online at www.lawhelpmn.org/forms.



- Find "Abuse and Harassment"
- Click on "Order for Protection Against Domestic Violence"

Take the completed forms to the courthouse to file.

3. You do not have to pay a filing fee.
4. **You do not need a lawyer.**
5. If you need protection from danger right away, ask for an "ex parte" order. "Ex parte" means without telling the person on the other side of the case. The order is signed the same day you apply, before the abuser is served. An ex parte order protects you until there is a hearing.
6. In most cases, you will have a hearing within 14 days. It will be within 7 days if you got an ex parte order.
7. In some cases, you can get an OFP without having a court hearing.

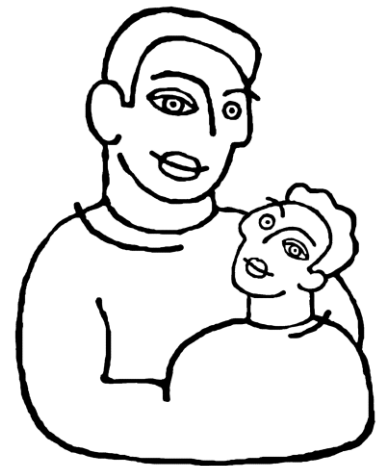
Can I get an OFP if I just moved to Minnesota?

Yes. There are no residency rules for getting an OFP.

What can I ask the court to do?

You can ask the court for many different things:

- That the abuser cannot harm or threaten you, the children, or anyone in your home.
- That the abuser cannot contact you in person, use another person to contact you, or contact you by email, messaging, phone or any other way.
- That the abuser has to leave your home, even if you have left to stay somewhere else for a while.
- That the abuser has to stay away from where you work, live, and go to school.
- That you have temporary custody of the children.
- That the abuser's parenting time (visitation) with the children be limited, take place away from you and be supervised by someone else.
- Order temporary child support.
- Order alimony (also called "temporary spousal maintenance").
- Order counseling or other social services for one or both of you, if you ask for it and are married or have children.
- Order the abuser to go to counseling or treatment.
- Give one or the other of you the temporary right to keep or use certain items of property.
- Order one or both of you not to sell, give away, destroy, or harm property.
- Order the sheriff to help you get your things out of the home or to provide protection.
- Order the abuser to pay for costs you have had because of the abuse. This can be medical bills or the cost of replacing or repairing damaged property.
- Order that they keep insurance for you and the children.
- Order that the abuser cannot abuse or hurt any pet or companion animal as a way to threaten you.
- Order that you get to keep and take care of a pet or companion animal.



You can ask the court not to use or give out your address in any public papers.

It is illegal for a person to have a gun if there is an OFP against him or her and the court finds that person to be a threat to your safety. Ask the court in your papers to order the abuser to turn all guns over to the police.

Does an OFP affect custody?

Yes. In future custody hearings, the court **must** take the OFP into account, even if the OFP is from a court in a different state.

If you are married to your abuser, you can ask for temporary custody. If you are not married to your abuser and haven't had a paternity or custody case with your abuser, you may already have sole custody if you are the mother. In Minnesota, unmarried mothers have sole legal and sole physical custody until a paternity or custody case says otherwise.

If you are not married to your abuser and your abuser signed an ROP when your child was born, they can ask the court for parenting time in the OFP.

If you have more questions about paternity, see our fact sheet [Paternity and Child Custody](#).

What happens at the hearing?

You must show up for the hearing! If you do not, the OFP will be dismissed.

If you are not ready to go to the hearing, ask for a hearing on another day (continuance).

At the hearing, you tell the judge what happened. If possible, bring evidence like police reports, medical records, and photos. Also bring witnesses who saw the abuse or your injuries or heard you or the children being threatened.

The abuser can tell the court his or her side of the story. The judge may ask both of you questions. You may be allowed to ask each other questions.



The judge usually makes a decision right away. You can have an advocate or lawyer with you, but you do not have to.

Sometimes the abuser also files for an OFP, claiming that you have abused him or her. The judge can hear both petitions at the same time. The judge may then make a "Mutual Order for Protection" (Order against both of you). The judge could also dismiss one order but grant the other. If the abuser does not file a petition, a judge **must not** give a mutual order.

What happens after the hearing? How long am I protected?

The OFP describes your rights. Read it carefully. The judge may order different things than what you asked for. The court will send a copy of the OFP to the local sheriff and police. You should also take a copy to your local police station. If you move, tell the court and the police your new address. The order says how long it lasts, up to 2 years in most cases.

If your abuser violates the OFP or no contact order or you are still threatened or afraid when the order runs out, ask the court to extend it. The court may issue a renewal order that can last up to 50 years.

If you want the renewal order to last longer than 1 or 2 years, you need to show that your abuser violated the order(s) at least 2 times OR that you had 2 other OFPs against the same abuser in the past.

Keep a copy of the OFP with you at all times!

What can I do if the abuser violates the OFP?

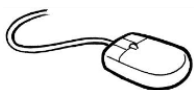
If the abuser threatens or harms you or the children, or comes to your home, it is a violation of the OFP. The abuser can't contact you by phone, email, text message or social media. That is a violation of the OFP. The abuser can't have a friend or family member send a message to you for them.

- **Call the police or sheriff right away.** The police should arrest the abuser. The police do not have to see the assault or threat, but they do need to see a copy of the OFP.

Violating the OFP is a crime, and the abuser can get up to 90 days in jail and up to \$1,000 in fines for the first violation. The abuser can also be punished for any other crimes they commit while violating the OFP. Having a weapon may add to the punishment. If the abuser tries to keep you from making a 911 call, that is also a crime.

- You can go back to Family Court to enforce the OFP. File a form with the court stating how the abuser violated the OFP. Use this form if the abuser does not pay child support, does not follow the custody or parenting time order, or fails to go to counseling – if those things were part of the OFP.

[Find the form](http://www.mncourts.gov) online at www.mncourts.gov.



- Click on "Get Forms"
- Click on "Domestic Abuse"
- Click on "Contempt"

The judge can order the abuser to appear in court for a hearing. Both you and the abuser can testify. If the judge decides that the abuser violated the OFP, they can be punished.



What if the police or sheriff won't arrest the abuser?

The police have to arrest the abuser for violating the OFP if there is probable cause. This means the police believe there was a violation and that the abuser knew the OFP existed. If an officer refuses to make an arrest, you can contact their supervisor to make a complaint. Do it quickly because many law enforcement agencies have short, strict timelines to make a complaint.

You can also file an affidavit with the family court, asking that the abuser be held in contempt of court. See section above. You can call your local legal aid office for advice.

What if I let the abuser into my home?

You do not violate the OFP by letting the abuser into your home. If the abuser won't leave, or threatens you, the OFP is still there for you to use. In fact, the abuser violates the order by coming into your home, even if invited. **But, for your own safety, do not invite him or her in!**

Do I need a court hearing to get an OFP?

Not necessarily. You can ask for an OFP without asking for a hearing. If you do not ask for a hearing, the court can still decide to schedule one, or can issue an order without a hearing. But the abuser has a right to a hearing, if they ask for it. If you have children together, it is best to ask for a hearing.

If you do not ask for a hearing, the court can only order 6 things:

1. that the abuser not harm or threaten you or the children
2. that the abuser can't contact you by phone, e-mail or through someone else
3. that the abuser leave the house
4. that the abuser stay away from your work
5. that they keep insurance for you or the children, and
6. that the abuser can't hurt your pets

You can also ask for temporary custody of the children. But some courts may not allow this, so, **if you have children, ask for a hearing.**

The abuser has 5 days to ask for a hearing after the sheriff serves the papers on them. If they ask for a hearing, it will be in 8 to 10 days. The court will send you a notice of the date. Check with the court every day to see if the abuser has asked for a hearing. If there is a hearing and you do not show up, the OFP will be dismissed.

Is an OFP good in other states?

Yes. If you move to a new state, file your OFP at the courthouse of your new area and take a copy to the local police. But even if you do not file the OFP or take a copy to the police, the new state should still enforce your order.



MFIP and OFPs

If you get MFIP, tell your worker about the OFP. Most parents on MFIP can only get MFIP for 60 months (5 years) in their life. MFIP has rules about how many hours per week you must spend on work activities. Work activities are work, work search, or training. **But you may be able to do less work activities if you are a victim of family violence.**

See a family violence counselor. To find one in your area, call 1-(866) 223-1111. The counselor can help you ask to have the 5-year clock stopped and help you set up an Employment Plan that takes your situation into account.

See our fact sheet, [MFIP and FSS for Family Violence Victims](#).

Harassment Orders

You can get a restraining order to prevent harassment in situations where you can't get an OFP. For an OFP, the abuser must be family, you must have lived with them, or you must have a family or significant romantic relationship. For a harassment order, the relationship between you and the harasser does not matter. The harasser may be a stranger, a neighbor or a co-worker.

“Harassment” means acts, words or gestures that the harasser uses that get in the way of your safety, security, or privacy. This can be threatening to hurt you or your property, stalking or following you, or repeatedly mailing or delivering objects to you, or to others about you.

Getting a restraining order from harassment is like getting an OFP:

1. Apply at the court with a petition and affidavit. The court has the forms.

OR

Find [information and links](#) to forms online at: www.lawhelpmn.org/forms.



- Find “Abuse and Harassment”
- Click on “Harassment Restraining Order”

2. Pay filing fees. If you have a low income, ask about filing for free. Sometimes there is no fee. It depends on what the harasser has done. Ask the court clerk about this.
3. The sheriff serves the papers.

The hearing is like an OFP hearing. The court order can:

- Order the harasser not to contact you and your family
- Allow police to arrest the harasser without a warrant and
- Last for 2 years, or longer if the harasser has violated restraining orders before

Fact Sheets are legal information NOT legal advice. See a lawyer for advice.

Don't use this fact sheet if it is more than 1 year old. Ask us for updates, a fact sheet list, or alternate formats.

© 2020 Minnesota Legal Services Coalition. This document may be reproduced and used for non-commercial personal and educational purposes only. All other rights reserved. This notice must remain on all copies. Reproduction, distribution, and use for commercial purposes are strictly prohibited.