

Orders for Protection and Harassment Restraining Orders



Tenth Edition Revised 2022

PREFACE

This booklet describes legal options for dealing with abuse. It is a guide and is not meant to answer all questions. The laws talked about in this booklet change often, so be sure to check for changes. This booklet only gives general rules which may or may not apply to your situation.

NOTE: This booklet sometimes refers to the abuser as a man and the victim as a woman, but a victim or an abuser can be either a man or a woman.

For legal advice, contact a lawyer. If you have a low income and need legal help, call your legal aid office at 1 (877) 696-6529 or look for help from other programs at <https://www.lawhelpmn.org/providers-and-clinics>.

If you have a low income you can get a free copy of this booklet from your local Legal Services office. You can also find it online at www.LawHelpMN.org to view or print out. Others can purchase the booklet for \$7.48 (which includes applicable sales tax, postage, and handling) by going to www.mnlegalservices.org/orderbooklets. If you have questions about ordering a booklet, email us at statesupport@mnlegalservices.org.

For free information about this and other civil legal topics, visit <https://www.LawHelpMN.org>.

© 2022 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 is strictly prohibited.

Table of Contents

Chapter 1. Learning about Orders for Protection	1
What is an Order for Protection (OFP)?	1
What is domestic abuse?	2
Who can get an OFP?	2
Can I get an OFP for someone else who is being abused?	3
Getting an OFP for a Minor.....	4
What protections can an OFP give me?	4
What is an Ex Parte Order for Protection?	5
Do I need a court hearing to get an OFP?	5
What happens with custody or parenting time?.....	6
How does the Court decide temporary custody and parenting time?.....	6
How long does an OFP last?	7
Can the abuser keep his guns?	7
What if I am on public assistance?	8
What are my rights if I am not a U.S. citizen?	8
Chapter 2. How do I get an OFP?.....	8
STEP 1: Get the Forms	9
STEP 2: Fill Out the Forms.....	10
STEP 3: File the Forms.....	11
STEP 4: Arrange for “service”	12
STEP 5: Find out if a hearing gets scheduled	13
STEP 6: Go to the court hearing.....	13
Chapter 3. The Court Hearing.....	14
How do I get ready for the hearing?.....	14
Can I take time off work to go to the hearing?	15
Tips for going to court	16
What does the judge do at the court hearing?	16
What happens if the abuser shows up with a lawyer?	17
Mutual Orders for Protection	17
What happens at the trial?	18
Chapter 4. After the Court Hearing	20
When do I get the Judge’s decision?	20
Where should I keep copies of my OFP?	20
What if I disagree with the decision?	20
What if the abuser violates my OFP?	21
Does the OFP end if I let the abuser into my home?	21
What if I have a protection order from a tribal court?	21
Can I take other legal actions against the abuser?.....	22
Chapter 5. Changing or Extending an OFP	22
How do I change my OFP?	22
My abuser promises he has changed and I should stop the OFP. Should I?	22
My OFP expires soon. Can I get it renewed?.....	22

Chapter 6. Moving When You Have an OFP	23
What if I move from the address listed on my OFP?	23
What if I work or live in another state?	23
I need to move to be safe. Can I break my lease?	23
Chapter 7. Harassment Restraining Orders	24
What is a Harassment Restraining Order?	24
What is harassment?	24
Who can get a harassment restraining order?	25
What is the difference between having an HRO and an OFP?	25
How does an HRO protect me?	25
How do I apply for an HRO?	25
Do I need a court hearing to get an HRO?	28
What happens at the hearing?	28
What if the harasser violates my HRO?	29
Where should I keep copies of my HRO?	29
Chapter 8. Criminal Charges Against Abusers	29
Has a crime been committed? What should I do?	29
Why would I want to have the abuser charged with a crime?	30
What if I decide I do not want the abuser charged with a crime?	30
Chapter 9. Where to Find Help and Get Court Forms	31
Where to Find Help	31
Court Forms	32
Notice to end lease due to fear of violence (Minn. Stat. § 504B.206)	33
Statement by qualified third party (Minn. Stat. § 504B.206)	34

NO ONE HAS THE RIGHT TO HURT OR THREATEN YOU OR YOUR CHILD.

If you are being threatened, hurt, or abused right now, call 9-1-1.

Get free, confidential help from Day One Crisis Hotline
at 1-866-223-1111 or www.dayoneservices.org.

You may be able to get an Order for Protection (OFP)
or a Harassment Restraining Order (HRO).

Chapter 1. Learning about Orders for Protection

This booklet helps you understand what an Order for Protection (OFP) is, how to get one, and how an OFP is different from a Harassment Restraining Order (HRO).

This booklet sometimes refers to the abuser as a man and the victim as a woman. A victim or the abuser can be either a man or a woman.

What is an Order for Protection (OFP)?

An Order for Protection (OFP) is a court order to stop household or family violence (domestic abuse). It orders the abuser not to hurt you. It can also:

- make the abuser leave your home
- keep the abuser away from you
- order temporary custody or parenting time (visitation)
- order temporary child support or spousal maintenance

An OFP is not a criminal case. It takes place in family court. If the police have been called, they may start a separate criminal matter because it is against the law to hurt or threaten people.

Some people talk about “no contact orders” but those are different. They generally mean a criminal court has ordered an abuser to have “no contact” with the victim.



What is domestic abuse?

Domestic abuse is when someone in your family or household is hurting you physically or threatening you with immediate physical harm. This includes sexual violence, terroristic threats, and not letting you call 911 for help. Here are examples of each of these kinds of domestic abuse:



1. Physical harm includes:

- shoving or pushing
- punching or slapping
- kicking
- pulling hair
- choking
- throwing things at you
- burning you with hot food or cigarettes
- stabbing
- shooting
- locking you in a room

2. Threatening you with immediate physical harm includes:

- saying things like "I'll kill you if you leave me," or "If you don't do what I say, I'll hit you harder than last time"
- waving a gun or knife at you
- smashing your furniture
- hurting or killing your pets
- throwing or breaking things near you

If the abuser has hurt you in the past and is now using words or actions that make you believe they are about to do it again, that is a threat of physical harm.

3. Sexual violence

This means forcing you to have sex or sexual contact with your abuser.

4. Threats of Violence include:

- bomb threats
- threatening with a fake gun
- threatening to commit any crime of violence

5. Interference with an emergency call means not letting you call 911 for help. An abuser can do this by:

- taking away your phone when you are on the phone with 911
- taking away or breaking your phone so you can't call 911



Who can get an OFP?

You can get an OFP to stop domestic abuse by **family** members or **household** members. This includes:

- Your husband or wife
- 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

This information applies to all people regardless of sexual orientation. You do not need to start a divorce to get an OFP against your husband or wife. You can get an OFP before, during, or after a divorce case involving the abuser. The OFP case is separate from the divorce case.

If you have a problem with someone like a neighbor, friend, distant relative, or co-worker, you can apply for a Harassment Restraining Order instead of an OFP. See Chapter 7. Harassment Restraining Orders on page 24 for more information.

OFP Against Dating Partners

To get an OFP against someone you are or were dating, the relationship must have been “significant.” To see if it was a “significant” relationship, the court will need to know personal information about your relationship like:

- how long the relationship lasted
- the type of relationship
- whether you had sex
- how long ago it ended

Can I get an OFP if I am a minor?

Most minors (someone under 18 years old) cannot get an OFP on their own. You need an adult who is at least 25 years old to file for an OFP on your behalf. But if you are **16 or 17**, you can file a petition on your own if it is against your spouse, former spouse, or a person you 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. Report child abuse by calling your county or tribal child protection agency: <https://mn.gov/dhs/people-we-serve/children-and-families/services/child-protection/contact-us/>
- If you are worried about abuse of an adult in someone else’s family or household, call Minnesota Adult Abuse Report Center at (844) 880-1574.



Getting an OFP for a Minor

You can apply for an OFP for a child if you are the child's

- parent or guardian
- a family or household member aged 25 or older

You can apply for an OFP for **yourself and a child** if you both have been abused or threatened.

You can apply for just the child if the child was abused or threatened and you were not.

The court may also want you to call Child Protection if a child was harmed or threatened.

What protections can an OFP give me?

You can ask the court for many different things to help keep you safe. Here are some examples:

- That the abuser cannot harm or threaten you, your child, or anyone in your home.
- That the abuser cannot contact you in person, by email, phone, messaging, social media, or use another person to contact you.
- That the abuser has to leave your home, even if you 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 your children.
- That the abuser's parenting time (visitation) with the child be limited or supervised by someone else.
- Order temporary child support.
- Order temporary spousal maintenance (alimony).
- Order the abuser to go to counseling or treatment.
- Order counseling or other social services for one or both of you, if you are married or have children.
- Give you the temporary right to keep or use certain property (like a car).
- Order the abuser not to sell, give away, destroy, or harm property.
- Order the police to help you get your things out of the home.
- Order the abuser to pay for costs you had because of the abuse. This can be medical bills or the cost of replacing damaged property.
- Order the abuser to keep insurance for you and your child.
- Order that the abuser cannot abuse or hurt your or your child's pet as a way to threaten you.



- Order that you get to keep your or your child's pet.

What is an Ex Parte Order for Protection?

If you need protection from danger right away, ask for an "Ex Parte" Order for Protection. "Ex parte" means without telling the person on the other side of the case. This is an order you get before the abuser has a chance to tell his side of the story. The order is signed the same day you apply, before the abuser is served.

You can still get an OFP if the judge denies the Ex Parte OFP, but only after a hearing.

Do I need a court hearing to get an OFP?

Not necessarily. In some cases, you can get an OFP without having a court hearing.

A hearing is **not required** if all you want is:

- an order that the abuser cannot hurt you
- the abuser to stay away from your home and move out if you live together
- the abuser to stay away from where you work
- the abuser to have no contact with you
- the abuser to keep insurance for you and your child
- an order that the abuser cannot hurt your or your child's pet
- an order that you get to keep your or your child's pet

BUT a hearing can still happen if the court decides to schedule one or the abuser asks for one.

A hearing **is required** if you want:

- custody of your child
- no parenting time or supervised parenting time for the abuser
- financial support
- personal property
- payment of your costs from the abuse
- the abuser ordered into counseling or treatment
- the abuser to give up his guns



In most cases, you have a hearing within 14 days. It is within 7 days if you got an Ex Parte OFP.

What happens with custody or parenting time?

The court can make temporary decisions on custody and parenting time at the OFP hearing, if you and your abuser:

- are married
- signed a Recognition of Parentage (ROP)
- had a paternity or custody case

If you are worried about the child being with an abusive parent, tell the court why the abuser should not have custody or parenting time. Make it clear in your forms that you don't think it is safe for your child. Be specific about why it is not safe for the child. Has the abuser hurt your child in the past? Is your child afraid of the abuser?

If the parents are not married when the child is born, there is no legal father until paternity is established. The parents may agree that a man is the biological father and sign a form called a **Recognition of Parentage (ROP)** or a court action may be started to name the father (**adjudicate paternity**). A birth certificate does not establish paternity.

An unmarried mother has sole legal and sole physical custody of the child until a court order says differently. An unmarried father does not have a right to custody or parenting time until paternity is established.

If paternity has not been established the court cannot give him custody or parenting time in an OFP hearing. Tell the judge you “object” if the abuser asks for custody or parenting time. If the judge gives the abuser custody or parenting time, contact a lawyer right away. Call your legal aid office at 1 (877) 696-6529 or look for help from other programs at www.LawHelpMN.org/providers-and-clinics.

For more information on paternity and child custody, see

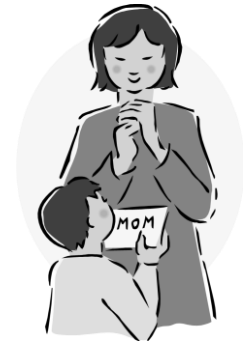
- “Paternity and Child Custody” fact sheet: www.LawHelpMN.org/self-help-library/fact-sheet/paternity-and-child-custody
- “Rights and Responsibilities of Unmarried Parents” booklet: www.LawHelpMN.org/self-help-library/booklet/rights-and-responsibilities-unmarried-parents

How does the Court decide temporary custody and parenting time?

Custody and parenting time are decided differently in an OFP case than in other custody cases. The court may award temporary custody or temporary parenting time to the abuser but only if it is safe for you and the child.

To decide temporary custody or parenting time, the court looks at different factors to see what is in the best interests of the child. These factors can be

- The child's physical, emotional, cultural, spiritual and other needs.
- Does the child have any special medical, mental health or educational issues?
- What does the child want?
- Does a parent have physical, mental, or chemical health issues that affect the child's safety or developmental needs?
- The willingness and ability of each parent to care for the child.
- How has each parent taken care of the child in the past?
- The child's relationship with each parent.
- How well the child is doing where they live now.



If the court decides your safety or the safety of the child is at risk the court has to

- order supervised parenting time and set specific rules. The court has to say the time, place, and how long the visits will be. The court has to say who will supervise the visits.

OR

- deny parenting time.

How long does an OFP last?

An OFP usually lasts for 2 years. If the abuser violates the OFP or you are still afraid of your abuser, you can get it extended. See “My OFP expires soon. Can I get it renewed?” on page 22 for more information.

Can the abuser keep his guns?

If an OFP is issued after a hearing, the abuser must turn over all guns and ammunition to law enforcement, or a third party.

The abuser must have notice and a hearing for a judge to order him to turn over his firearms. The abuser does **not** have to turn over their guns if:

- Your OFP was issued without a hearing
- You have an Ex Parte OFP
- Notice was not given to the abuser
- The abuser was not given a chance to have a hearing



If a criminal court convicted the abuser of domestic assault **and** the abuser used a gun during the assault the criminal court can stop the abuser from having guns. This could be temporary or for the rest of the abuser's life depending on the conviction. This includes hunting rifles and bb guns.

What if I am on public assistance?

There are special programs and different requirements for victims of domestic abuse. Tell your worker if you are a victim of domestic abuse. Ask for a modified employment plan if you get MFIP or DWP. You and the county will develop your plan with help from a domestic abuse advocate.

Your plan can include activities that

- protect you and your family
- help your family overcome the effects of the abuse
- lower the number of hours you have to do for work activities.

There is a 60-month limit for getting public assistance. If you are a victim of domestic abuse you may get more time. You must give your worker proof of the abuse. Proof is

- Your sworn statement

AND

- 1 of these
 - ❖ OFP
 - ❖ medical record
 - ❖ police report
 - ❖ sworn statement from someone else who knows about the abuse

What are my rights if I am not a U.S. citizen?

You can apply for an OFP. No one has the right to hurt or threaten you. Applying for an OFP does **not** put you at risk for deportation or affect your immigration status. There are many immigration laws that help protect non-citizens and their family that have been abused.

There are special immigration laws that protect victims of domestic abuse. See our fact sheet “Immigration Relief for Victims of Family Violence” for more information: www.LawHelpMN.org/self-help-library/fact-sheet/immigration-relief-victims-family-violence.



Chapter 2. How do I get an OFP?

To get an OFP you need to get the forms, fill them out, and file them with the courthouse. The courthouse you go to can be in any of these places:

- the county you live in OR

- the county your abuser lives in OR
- the county where the abuse occurred OR
- the county where you have a family court case



You do not have to pay a filing fee.

You do not need a lawyer.

The rest of this chapter tells you the steps to take to get an OFP.

STEP 1: Get the Forms

The form you need to get your OFP is the "Petitioner's Affidavit and Petition for Order for Protection."

- The Affidavit is a statement of facts. You give basic information about yourself and describe the domestic abuse. **You do not have to put your address in the affidavit. You can ask the court to keep your address confidential.**
- The Petition tells the court what you want the court to do. You list the things you want the court to order in the OFP. (See "What protections can an OFP give me?" on page 4.)

There are domestic abuse advocates 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)
- Go to Violence Free Minnesota vfmn.org and click "Get Help" for a list of organizations in your county.

There are 3 ways to get your forms:

1. Go to the courthouse and tell them you want to file an OFP. A court clerk gives you the forms you need.
 - In Hennepin and Ramsey counties, there are special offices at the courthouse to help you apply for an OFP. This help is free.
 - ❖ For Hennepin County, call the Domestic Abuse Service Center (DASC) at (612) 348-5073
 - ❖ For Ramsey County, call the Domestic Abuse/Harassment Office at (651) 266-5130

OR

2. Get the forms online so you can fill them out before going to the courthouse.
 - Go to www.mncourts.gov/forms
 - Click on "Domestic Abuse"

- Click on “Filing an Order for Protection”
- Read the instructions carefully.

OR

3. Fill out and file the forms online using the court’s Guide and File interview. This program helps you create the forms to ask the court for an OFP. It works by asking you questions. It uses your answers to fill out the forms. You can file your forms with the court electronically. Or you can print your forms and take them in person to the courthouse to file.



To start the Guide and File interview:

- Go to <https://minnesota.tylerhost.net/SRL/SRL>
- Click “Ask for a MN Restraining Order”

STEP 2: Fill Out the Forms

There are two main parts to the forms. After you give the court background information about you and anyone else who needs protection, you:

1. Describe the abuse
2. Tell the court what kind of protection you need and why



1. Describe the Abuse - Give Details

There are many kinds of abuse. The court has to decide if your situation meets the legal definition of domestic abuse. Give as much detail and specific examples of what happened as you can. The more details the court has, the better they can understand what happened. Be as specific as you can. Do not use words like “he abused me” or “he became physical.” Instead tell the court:

- When did the abuse happen? Use specific dates. If you can’t remember the exact date, tell the court what month and year it happened.
- Where did the abuse happen? At home? In your car? At work?
- Were you physically harmed? If so, tell the court how you were hurt. Did your abuser hit you with a closed fist? Did they slap you with an open hand? Did they push you on the chest and you fell backwards?
- Did you have any injuries? Tell the court about any bruises, cuts, or red marks. Did you get a bloody nose or cut lip? Is your arm sore from where they grabbed you? Did you go to the doctor?

- What did your abuser say? Use the exact words of a threat. Even if your abuser swore or called you names, you should still put their exact words in your forms.
- What was their body language? Was their face red from yelling? Were they standing over you with their hands in fists?

Here are two examples, one that doesn't have enough detail and one that has lots of details:

Poor Example	Good Example
We were arguing. Respondent screamed at me and I was afraid.	Last Thursday night, October 11, 2020, we were talking about our child. Respondent screamed that I had better do exactly what he said or I'd be sorry. I kept backing away from him as he came closer. I was backed into the wall of the kitchen. He was standing so close to me I could feel his spit on my face as he screamed. I was afraid because about a month ago, when he said I better do something or I'd be sorry, he grabbed my arms and shook me really hard. Afterwards, my arms were red and sore where he shook me. I was really afraid he would hurt me again. I ducked under his arms and ran out of the house

2. Tell the court what kind of protection you need and why

Look at the list on page 4 for examples of the kinds of things you can ask the court to do. If you ask the court to do certain things, you have to have a hearing. Read the section "Do I need a court hearing to get an OFP?" on page 5 for information for the list of protections that need a hearing.

Tell the court why you need the things you are asking for. Be specific and give reasons for why you need something. For example, if you are asking for custody of your child. Tell the court why you want custody. Is the child afraid of the abuser? Are you the one that mainly takes care of the child?

STEP 3: File the Forms

Take the completed forms to the courthouse to file. In many courts, the court clerk takes the form from you and gives them to the judge.

If you used the online interview ("Guide and File") to complete your forms, you can file them electronically.

Only a judge can decide if you get the OFP.

What if the court clerk or advocate tells me I can't ask for an OFP?

If a court clerk says you can't ask for an OFP:

- Ask to see the judge and explain why you need one.

If an advocate or a lawyer says you can't ask for an OFP:

- You probably still can. They are likely only telling you they do not think a judge will give you an OFP. You should ask why he or she thinks you should not ask for one. Their reasons may help you fix a problem in your forms. The judge can only give you an OFP if your abuse meets the legal definition of domestic abuse. You may have forgotten to include some information that meets the definition.

STEP 4: Arrange for “service”

The forms you fill out to ask for your OFP have to be given to the abuser in a certain way. This is called “service of process,” or “service.” This means that someone other than you personally hands the papers to the abuser. The sheriff or police officers usually serves the papers. But adults— other than you —may be allowed to serve them too.



If you use the sheriff or police, there is no cost to you. But you may need to take the papers to the sheriff yourself. The sheriff is usually located at or near the courthouse. Give the sheriff all the information you can about where to find the abuser. In some counties, the court clerk takes care of getting the papers to the sheriff for you.

What if I don't know where the abuser is?

You can still ask for an OFP. If the court clerk says you need to know where the abuser is, you can give:

- a last known address
- a friend or relative's house where he might be staying
- a work address

If you don't know where the abuser is and can't find out, ask to have the forms served in another way. This is called “alternate service.” The court clerk or an advocate has forms to help you ask for alternate service.

If the sheriff has tried to serve the abuser and he is hiding to avoid being served, you may be allowed to “serve” him by publishing a notice in the newspaper.

To serve by publishing, you have to file an affidavit with the court that says:

1. law enforcement (sheriff or police) tried to serve but couldn't because the abuser is hiding to avoid being served

AND

2. you mailed a copy of the petition to his last known address **OR** you don't know any address for him.



What happens if the forms are not served before the court hearing?

You still have to go to the court hearing! If you don't show up the judge could dismiss your OFP. If the sheriff or police can't find the abuser, you can ask the judge at the hearing to have the abuser served by mail or with a notice in a newspaper. You have to fill out a form to ask for service in another way. Ask the court clerk for the forms for "alternate service."

If this happens, the judge sets a new hearing date. You have to go to the next hearing to get your OFP. If you have an Ex Parte OFP, the court should issue a new one to last until the next hearing.

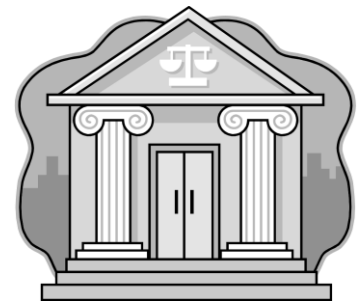
Service needs to be done the right way, in the right period of time, or you will not get your OFP. If you are having problems with service, think about talking to a lawyer or an advocate. They can help you do things you are having trouble doing on your own. To find a lawyer call your legal aid office at 1 (877) 696-6529 or go to www.LawHelpMN.org/providers-and-clinics.

STEP 5: Find out if a hearing gets scheduled

If you get an Ex Parte OFP, the abuser can ask for a hearing even if you do not. The abuser has 5 business days to ask for a hearing after he is served (gets the forms). **If you do not get a notice in the mail, keep calling the court to see if the abuser asked for a hearing.** If you do not appear at the court hearing, the abuser can get the OFP dismissed. You will not have protection.

STEP 6: Go to the court hearing

- If you asked for a hearing, it must be held within 7 days from when the judge signs the Ex Parte OFP.
- If the judge did **not** sign an Ex Parte OFP, the hearing must happen within 14 days from when the judge signs the Order for Hearing.
- If you did not ask for a hearing but the abuser did, the hearing must be scheduled between 8 and 10 days from when the abuser asks for it.



If you do not go to the hearing, the court will not give you an OFP. Even if you got an Ex Parte OFP, it will not be any good if the judge schedules a hearing and you do not go.

If you can't go to the hearing, ask for a hearing on another day. This is called a continuance. The court only does this if you have a good reason. For example, if you are in the hospital or trying to find a lawyer to represent you. To get a continuance you need to contact the court, tell them you have an OFP hearing but want to ask for a continuance. They tell you what to do. Each court has a different way to ask for a continuance. The phone number for your court should be on your hearing notice (the paper telling you when your hearing is).

Chapter 3. The Court Hearing

How do I get ready for the hearing?

1. **Evidence:** If you have evidence that you want the judge to look at, start getting your papers together. Evidence can be photos of your injuries, police reports, medical reports, or messages from your abuser. If you have any texts or photos on your phone that you want the judge to see, you need to get them off your phone for the hearing. Bring three copies of your evidence to your hearing. One for the judge, one for the abuser, and one for you. Make sure you bring them all with you. You can't bring things later or say that you have it at home and could bring it later.

It is best to have **certified** copies of documents like police reports or medical records. You need to ask the police or your doctor for certified copies. Evidence to bring to court can be:

- Police reports and medical records
- Things the abuser damaged like a broken phone or torn clothing
- Screenshots of threatening texts, social media posts or letters
- Photos of injuries or damaged property too big to bring to court
- Receipts showing costs you had to pay because of the abuse. Like a new lock, repairing the wall, buying a new phone or medical bills.

If you need documents for the hearing and are having trouble getting them, you can use a subpoena to get them. On the subpoena there is a place to list the documents you need. Ask the court clerk for forms and how to do it. You can also read about subpoenas below in the next section.

2. **Witnesses:** Witnesses are people who saw the abuse or your injuries or heard you or your child being threatened. See if you have any witnesses that can come to the hearing. If police or the sheriff were called, they can be witnesses. So can the doctor or nurse that treated your injuries. If you want to show the judge a police report, ask the police officer who wrote the report to come to the hearing. Police officers are usually very helpful and cooperative.

It may be harder to get doctors or nurses to come to the hearing. But if your injuries or the things you said are important to your case, you should ask them to come. Make sure your witnesses know the date, time, and place of your hearing.



What if a witness doesn't want to come?

If a witness won't come to the hearing on their own, use a form called a **subpoena** to make them come. You can also list any papers you want the witness to bring to the hearing. Get a subpoena form from the court clerk as soon as possible. You need time for the people to get the subpoenas before your hearing. There is no cost for the subpoena form. But there is a cost for the witness's time and expenses to come to the hearing.

Fill out the subpoena and take it to the sheriff for service. This means the sheriff gives it to the person. You have to staple a check or money order to it for the witness's time and expenses. You have to pay the witness \$20 plus 28¢ per mile for their drive to the courthouse and back to their home. You may be able to get this money back.

Doctors, nurses and other professionals sometimes charge hourly fees to come to court. Record keepers normally do not charge hourly fees. You can ask the court to pay their fees if you can't afford them.

If you can't afford the fees, ask the court for an **"In Forma Pauperis" (IFP)** form to fill out. This form asks the court to lower or waive the fee so you don't have to pay. You can use the court's online Guide and File interview to fill out your forms and file them electronically. To start the Guide and File interview:

- Go to <https://minnesota.tylerhost.net/SRL/SRL>
- Click "Request a Fee Waiver"

Note: Be careful using your medical records in the court hearing. If there is anything bad about you like suicide attempts or drug use in any of the records, it can be used against you.

- 3. Practice:** Read over the forms you filed to get ready for what you want to say. It may help to talk about what you want to say with your advocate or someone else you are comfortable with before the hearing. Remember to be specific and give lots of details.

Use a checklist to help prepare your story. Describe the most recent abuse first.

Use the advice from section "STEP 2: Fill Out the Forms" on page 10 about how to tell your story with lots of details.



Can I take time off work to go to the hearing?

Your employer can't punish you for taking time off from work to get an OFP or to go to your hearing. Tell your boss at least 2 days before your hearing that you will be missing work. Your boss must keep the information private unless you say they can share it.

If your abuser might come to your workplace, give a copy of the OFP to your boss. Let others at work like a receptionist or security guard know about the OFP.

Tips for going to court

How you act in the courtroom can make a big difference in your case. Here are some tips:

1. **Arrive early.** Check with the court clerk for the location of the hearing.
2. **Pay attention.** The judge or clerk announces your case before it starts. Be ready to start when you are called.
3. **Do not bring children to the hearing.** Find someone to look after your kids while you are at the hearing. If you do bring them, the judge will not let them in the courtroom.
4. **Dress in neat and clean clothes.** This shows respect for the court.
5. **Be calm and polite** with everyone in the courthouse, even the abuser.
6. **Be serious** at all times in the courthouse.
7. **Don't say anything in the bathrooms or hallways that you do not want the abuser, or the abuser's lawyer or relatives to hear.**
8. **Treat the judge with respect.** Say “yes sir” or “yes ma’am” to the judge.
9. **Speak clearly.** Answer questions by saying “yes” or “no”. The court needs to make a record of everything happening in the courtroom. They can't record your answer if you shake or nod your head. Do not chew gum or put your hands in front of your mouth.



10. Give details.



Do Not

- argue with the judge
- interrupt the judge
- argue with the abuser
- interrupt the abuser

What does the judge do at the court hearing?

Every judge runs their courtroom differently. If you work with an advocate, ask what they know about your judge.

Many judges begin the hearing by giving the abuser 3 choices.

1. admit the abuse
2. deny the abuse, but agree that the OFP can be issued
3. deny the abuse and have a trial

If the abuser picks #1, you get the OFP. The court makes a written record of how the abuser hurt or threatened you in the OFP. This option rarely happens.

If the abuser picks #2, you get the OFP. But there will be no “findings” of abuse. This means that you have all the protections of the OFP, but there is no written record of how the abuser hurt or threatened you.

If the abuser picks #3, the judge holds a trial. Some judges have the trial right then. Some judges schedule the trial later that day or on a different day. You will not know if the trial happens right away so you must be ready with your evidence and witnesses the day of your hearing.

What happens if the abuser shows up with a lawyer?

You can ask the court to delay the hearing a few days so you can find a lawyer. This is called a **continuance**. The court might not give you a continuance. You should be prepared for a trial the day of your hearing.

Mutual Orders for Protection

Sometimes the abuser also files for an OFP, claiming that you have abused them. The judge can hear both petitions at the same time. If the judge decides you both committed domestic abuse against each other, the judge can issue both OFPs. These are called mutual OFPs.

Sometimes the abuser will agree to your OFP if you agree that they can get an OFP against you. If the abuser does not file a petition, a judge **must not** give a mutual order.

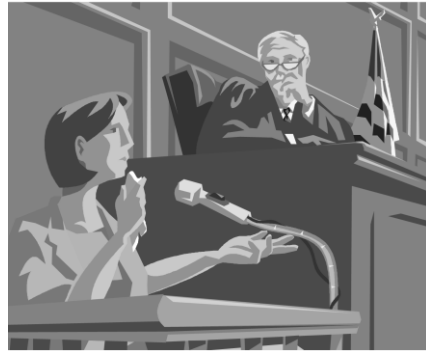
Be careful!

Do not agree to a mutual order if you did not commit domestic abuse. A mutual order can make it easier for the abuser to call the police and have you arrested for abuse. Mutual orders can create immigration problems for temporarily documented people if the order says you abused the other party.

What happens at the trial?

1. You present your case first.

You tell your story after taking an oath to tell the truth. Tell the judge why you need an OFP. This is called your testimony. Your testimony is based on the information you put in your forms. Start with the most recent abuse and work backwards. Even if you were physically harmed years ago, tell the court about it. Tell the court about everything you put in your forms.



Try to answer these questions during your testimony:

- When did the abuse happen?
- Where did it happen?
- Who was there?
 - Was it just you and the abuser? Was anyone else present during the abuse?
- What happened?
 - Were you physically harmed? How?
 - Were you injured?
 - Did you see a doctor?
 - Were you threatened?
 - What did the abuser say?
 - What was their tone (how did they say it)?
 - What was their body language?
- Was your child there?
 - Were they hurt or threatened?
 - How did they react?
- Are you afraid of the abuser?
 - Why?
- Why do you need an OFP now?

Be as specific as you can. Give as many details about the abuse as you can remember. It helps to look at the judge and not the abuser while you are talking. If you have evidence of the abuse, give it to the judge now.

After telling the judge about the abuse, talk about what you are asking the judge to do and why. See “What protections can an OFP give me?” on page 4 for what you can ask for. Tell the judge

- why you should have custody
- why you need child support
- why the abuser should have no parenting time or limited parenting time

- why you need use of property and why you need the car
- why you need the abuser to pay restitution (money needed for damages)
- why the abuser should stay away from your home, work and the child's school or daycare.

2. The abuser or his lawyer can ask you questions.

This is not a time for the abuser to argue with you or tell his side of the story. Answer their questions truthfully. Stay calm. Stay focused. Look at the judge. Do not look at the abuser or his lawyer. If you do not understand the question, ask the judge to ask the question again or in another way.

3. If you brought a witness, they tell the judge what they saw or heard.

This is called their testimony. You have to ask the witness questions. They cannot just talk to the judge on their own.

Examples of questions to ask your witness:

- What is your name?
- Where were you on (the date of the abuse)?
- Who was there?
- What did you see?
- What did you hear?
- How was I acting?
- How was abuser acting?
- How was my child acting?



If the witness brought documents to show the judge, ask them to give the documents to the judge.

Sometimes there are problems with what witnesses say when they were not present during the abuse. Sometimes there are problems with evidence such as police reports or doctor reports if the police officer or the doctor is not there. Talk to a lawyer about these problems before the hearing if you can. To find a lawyer call your legal aid office at 1 (877) 696-6529 or go to www.LawHelpMN.org/providers-and-clinics to look for help from other programs.

4. The abuser or his lawyer can ask your witness questions.

5. The abuser presents his case.

The abuser tells his story after taking an oath to tell the truth. The abuser **gives his** documents to the judge. You have a right to see any documents he wants the judge to see.

6. You can ask the abuser questions

After he is done telling his story ("testimony") you can ask him questions. **BUT you do not have to.**

It is not a time to argue or give your side about what he said. **Just ask questions.** If you don't have any questions, that's ok. **The judge decides if the abuser is truthful.**

7. If your abuser brought a witness, they tell the judge what they saw or heard

After his testimony, the abuser can have his witnesses testify.

8. You can ask your abuser's witness questions

You can ask the witness questions, but you do not have to.

Chapter 4. After the Court Hearing

When do I get the Judge's decision?

After both you and the abuser present your cases, the judge decides if you get an OFP. You might have to wait but if the judge decides to give you an OFP, usually you get a copy of the order that day.

Sometimes the judge might need time to think about the trial and if you should get the OFP. If that happens you need to come back to court later in the day or the next day to find out if you got the OFP.

If the judge does not give you an OFP, they should tell you why.

When you get the order **read it carefully**. If there are any mistakes, talk to the court clerk to find out how to fix the order. For example, if you see your address or birth date is wrong, tell the clerk right away. They will fix it and get you a new order.

Where should I keep copies of my OFP?

Make copies of your OFP **and always keep a copy with you**. Keep a copy in your purse, in your car, at work, and anywhere else it may be needed. Police are more likely to arrest the abuser for violating your OFP if you have a copy with you.



Consider giving copies of your OFP to your landlord, supervisor at work, day care provider, and your child's school.

What if I disagree with the decision?

You can appeal the judge's decision. An appeal is when you ask another court to review the judge's decision. This court is called the Court of Appeals. **Act fast!** There are special time limits that apply. Filing an appeal can be difficult. Talk to a lawyer to see if you should file an appeal. There has to be a legal reason for appealing a judge's decision. For example, the judge did not follow the law.

For information and forms to file an appeal:

- Go to the courts' website: www.mncourts.gov/CourtOfAppeals.aspx.
- Click "Appellate Forms & Instructions (for self-represented litigants)."

What if the abuser violates my OFP?

Call the police. Police must arrest the abuser if they believe the abuser violated an OFP. They do not have to see the violation themselves. Tell the police you have an OFP. Show them a copy of the OFP. Ask them to make the arrest.

Violating an OFP once is a misdemeanor crime. An abuser convicted of violating an OFP must be sentenced to at least 3 days in jail and ordered to go to counseling. Maximum penalties are 90 days in jail and a \$1,000 fine. But the penalties the judge orders are usually much lower. A prosecutor may call you to see what penalties you think the abuser should get.

Violating an OFP 2 times is a gross misdemeanor. An abuser convicted of a 2nd violation must serve at least 10 days in jail. Maximum penalties are 1 year in jail and a \$3,000 fine. Again, the penalties ordered are usually much lower.



If the abuser uses a weapon when violating the OFP it is a felony. It is also a felony if the abuser violates an OFP 3 or more times in 10 years. The maximum punishment for a felony is 5 years in prison and a \$10,000 fine.

Sometimes when an abuser violates the OFP, he also commits a more serious crime in the process. If this happens, other criminal charges might also be filed.

You can also ask the judge in your OFP case to find the abuser in contempt of the court. The court clerk has forms to do this.

Does the OFP end if I let the abuser into my home?

No. But for your safety it is better not to. If the abuser comes in the house because you say he can, it is still a violation of the OFP.

What if I have a protection order from a tribal court?

A protection order from a tribal court must be enforced if the protections are the same as an OFP. Take a certified copy of the tribal court protection order to the courthouse and ask them to file it. There is no cost. You can go to the courthouse in the county:

- you live in
- your abuser lives in
- where the abuse occurred OR
- where you have a family court case

Give a copy of the protection order to your local police or sheriff's department. If the abuser violates the order, they will know to arrest him.

Can I take other legal actions against the abuser?

You can sue the abuser for money if you have injuries, including emotional distress. There may be other legal possibilities as well. Talk to a lawyer about your options. **Act fast!** There are time limits that apply.

Chapter 5. Changing or Extending an OFP

How do I change my OFP?

You need to ask the court to change your OFP. This is called a modification. Fill out the forms explaining what you want to change and why. Then file the forms with the court. You can get the forms here: www.mncourts.gov/GetForms.aspx?c=17&f=323.

The court schedules a hearing. Go to the hearing and tell the judge why you need your OFP changed. If you don't go to the hearing, the judge will not change your OFP.

My abuser promises he has changed and I should stop the OFP. Should I?

The decision is yours. You need to think carefully. Many times abusers say they are sorry, but soon the abuse starts again. Has the abuser completed a domestic abuse program or counseling? Or is this promise only words? Has he promised never to hurt or threaten you before but did it anyway? How has the abuser shown he has really changed?

If you dismiss the OFP you can only get a new one if there is more abuse.

You have other choices than dismissing the order. You could change the order to allow contact so you can go to counseling together. This would let you see each other without the abuser violating the OFP. But the other protections of the OFP would stay in place.

My OFP expires soon. Can I get it renewed?

You can get your OFP renewed if:

- the abuser violated the order OR
- the abuser has harassed you OR
- you are still afraid of the abuser OR
- the abuser is about to get out of jail or prison

You do not have to show there have been new acts of domestic abuse. It does not matter if your OFP has already expired or if the abuser agreed to the OFP. Even if the criminal court did not charge and convict your abuser with a violation of your OFP, you can still ask the Court to extend your OFP. You still need to prove that your OFP was violated, but there doesn't have to be a criminal conviction.

The court can make the OFP last for up to 50 years if:

- you have had 2 or more OFPs against the abuser OR
- the abuser has violated the OFP 2 or more times

If you applied for a 50-year OFP for a minor, they need to apply again on their own when they turn 18.

Chapter 6. Moving When You Have an OFP

What if I move from the address listed on my OFP?

The OFP is good even if you move. Think about giving the court and your local police department your new address. Make sure to tell them your address is confidential. **If you don't tell them it is confidential**, the abuser might be able to get your new address.

What if I work or live in another state?

Ask for a **certified** copy of your OFP from the court that issued it. Take the certified copy to the courthouse in the county you live or work in. Ask to file or register it as a "foreign judgment." The law requires other states to recognize and enforce your OFP once you file it.

I need to move to be safe. Can I break my lease?

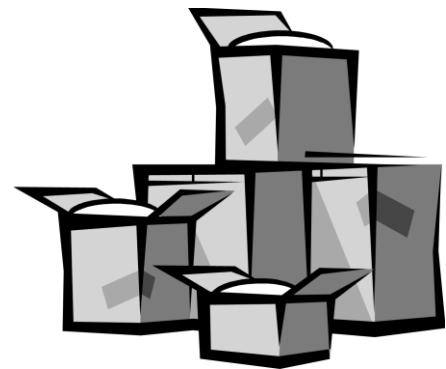
You can **legally** break your lease if you have been a victim of domestic violence, sexual assault, or stalking. You must:

1. Give the landlord

- A copy of an OFP or HRO
- AND
- A signed and dated letter saying these things:
 - ❖ you fear imminent abuse from the person named in the order
 - ❖ you need to end your lease
 - ❖ the date you will leave
 - ❖ what you want the landlord to do with your stuff

You can see a sample "Notice to end lease due to fear of violence (Minn. Stat. § 504B.206)" at the end of this booklet.

- #### 2. Pay rent for the month you move out.
- You lose your security deposit. The landlord keeps it in return for letting you break the lease.



If you don't have (or don't want to get) an OFP or HRO, you can give your landlord a letter that says you have been a victim of domestic violence, sexual assault, or stalking. You can see a sample "Statement by qualified third party (Minn. Stat. § 504B.206)" at the end of this booklet.

This letter must be from

- a court
- law enforcement
- a licensed health care professional
- a domestic abuse advocate OR
- a sexual assault counselor

If you have questions, contact a legal aid office or a domestic abuse advocate. To find a lawyer call your legal aid office at 1 (877) 696-6529 or go to www.LawHelpMN.org/providers-and-clinics to look for help from other programs.

For more information on breaking your lease, see our fact sheet “Victims of Domestic Violence, Stalking, or Criminal Sexual Conduct: Your Rights in Breaking Your Lease” at www.LawHelpMN.org/self-help-library/fact-sheet/victims-domestic-violence-stalking-or-criminal-sexual-conduct-your

Chapter 7. Harassment Restraining Orders

What is a Harassment Restraining Order?

A Harassment Restraining Order is a restraining order to prevent harassment. It is not a criminal case. It takes place in civil court.

What is harassment?

“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
- repeatedly calling you
- stalking or following you
- repeatedly mailing or delivering objects to you
- one time physical or sexual assault (harm)
- sending your private sexual pictures to someone



Who can get a harassment restraining order?



Anyone can get a Harassment Restraining Order (HRO). The relationship between you and the harasser does not matter. The harasser may be a stranger, neighbor, or a co-worker.

A parent or stepparent can get a harassment order for a child, if the child is being harassed.

If someone is harassing you, sometimes it helps if you first tell them to stop in writing like a text or email. Keep a copy of how you told them to stop. Write down any time you told the harasser to stop verbally.

What is the difference between having an HRO and an OFP?

For an OFP, the abuser must be family, you must have lived with them, or you must have a child together or a significant romantic relationship. For an HRO, the relationship between you and the harasser does not matter. If you have the kind of relationship you need to get an OFP, you should apply for an OFP.

Some behaviors do not meet the legal definition of domestic abuse but do meet the definition of harassment. For example, your ex-boyfriend calls you over and over saying he is going to take custody of your child. If it annoys you that his calls don't stop, it is harassment. If his calls make you afraid of being harmed, it is domestic abuse.

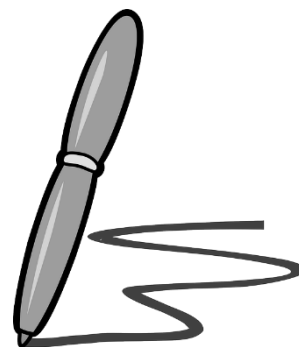
How does an HRO protect me?

The court can order the harasser not to contact you and your family. It allows the police to arrest the harasser without a warrant. The HRO can last for 2 years, or longer if the harasser has violated restraining orders before.

How do I apply for an HRO?

To get an HRO you need to get the forms, fill them out, and file them with the courthouse. The courthouse can be in the county

- you live in OR
- your harasser lives in OR
- where the harassment occurred



You do not need a lawyer.

There is a filing fee for applying for an HRO. But the court can waive the fee or lower the fee if:

- you are low income and can't afford to pay the fees. Ask the court for a fee waiver. This is called "In Forma Pauperis" or IFP. This form asks the court to lower the fee or waive it so you don't have to pay. You can use the court's online Guide and File interview to fill out your forms and file them electronically. To start the Guide and File interview:

- ❖ Go to <https://minnesota.tylerhost.net/SRL/SRL>

- ❖ Click "Request a Fee Waiver"

OR

- what your harasser did to you is a crime. You can ask the court clerk for a list of the crimes. Some of them are:

- ❖ stalking, following, or monitoring you
- ❖ an illegal act with the purpose of injuring you or destroying your property
- ❖ trespassing — being at your home without your permission
- ❖ repeatedly calling or texting you
- ❖ sexual assault
- ❖ sexual contact with a minor

STEP 1: Get the Forms

The forms you need to get your HRO is the "Petitioner's Affidavit and Petition for Harassment Restraining Order" and "Law Enforcement Information Sheet"

- The Affidavit is a statement of facts. You give basic information about yourself and you describe the harassment. **You do not have to put your address in the affidavit. You can ask the court to keep your address confidential.**
- The Petition tells the court what you want the court to do. You list the things you want the court to order in the HRO.
- The Information Sheet helps police or sheriff's department find the harasser. They need to find the harasser to serve him or her with your forms.

There are 3 ways to get your forms:

1. Go to the courthouse or and tell them you want to file an HRO. A court clerk gives you the forms you need.
 - In Ramsey County, there is a special office at the courthouse to help you apply for an HRO. Call the Domestic Abuse/Harassment Office at (651) 266-5130.

OR

2. Get the forms online so you can fill them out before going to the courthouse.

- Go to www.mncourts.gov/forms
- Click on “Harassment”
- Click on “Petitioner’s Harassment Packet”
- Read the instructions carefully.

OR



3. Fill out and file the forms online using the court’s Guide and File interview. This program helps you create the forms to ask the court for an HRO. It works by asking you questions. It uses your answers to fill out the forms. You can file your forms with the court electronically. Or you can print your forms and take them in person to the courthouse to file.

To start the Guide and File interview:

- Go to <https://minnesota.tylerhost.net/SRL/SRL>
- Click “Ask for a MN Restraining Order”

STEP 2: Filling Out the Forms

There are many kinds of harassment. The court has to decide if your situation meets the legal definition of harassment. Give as much detail and specific examples of the harassment as you can. The more details the court has, the better they can understand what happened. The court can only look at the information in your forms to decide if you should get an HRO.

In your forms, tell the court

- When did the harassment happen? Use specific dates. If you can’t remember the exact date, tell the court what month or day of the week.
- What was the harassment? Do not use words like “he followed me” or “she called a lot.” Instead tell the court specific details. For example:
 - ❖ I saw him sitting in his car outside my house every day for the last 5 days. He also followed me to work yesterday and sat in his car all day until I was done working.
 - ❖ Since October 15, 2020, she calls me over and over at least 15 times per day. She called me 26 times yesterday.
- What did the harasser say? Use the exact words of a threat. Even if your harasser swore or called you names, you should still put their exact words in your forms

STEP 3: File the Forms

Take the completed forms to the courthouse to file.

If you used the online interview (“Guide and File”) to complete your forms, you can file them electronically.

Only a judge can decide if you get the HRO. It may take 1-3 days for the judge to make a decision.

STEP 4: Arrange for “service”

The forms you fill out to ask for your HRO have to be given to the harasser in a certain way. This is called “service of process” or “service.” This means that someone other than you personally hands the papers to the harasser. The Law Enforcement Information Sheet you filled out helps police or sheriff’s department serve the harasser.

If you use the sheriff or police, there is no cost to you. But you may need to take the papers to the sheriff yourself. The sheriff is usually located at or near the courthouse. Give the sheriff all the information you can about where to find the harasser. In some counties, the court clerk takes care of getting the papers to the sheriff for you.

If the court does not give you an HRO and does not schedule a hearing, the harasser will not be served with your forms.

Do I need a court hearing to get an HRO?

Not necessarily. In some cases, you can get an HRO without having a court hearing. The court can give you an HRO “ex parte.” “Ex parte” means without telling the person on the other side of the case. This is an order you get because the information in your forms shows there is immediate danger of harassment. You get the order before the harasser has a chance to tell his side of the story.

If you get an ex parte HRO, the harasser can ask for a hearing. The abuser has 20 days to ask for a hearing after he is served (gets the forms). **If you do not get a notice in the mail, keep calling the court to see if the harasser asked for a hearing.** If you do not go to the court hearing, the harasser can get the HRO dismissed. You will not have protection.

If the judge denies your request for an HRO, you can ask for a hearing. At the hearing you will need to prove the information in your forms is true and the harasser’s actions meet the legal definition of harassment.

What happens at the hearing?

You present your case first. You tell the judge what happened and why you need an HRO. This is called your testimony. If you have evidence to prove the harassment, bring it to the hearing.

Evidence can be phone records or text messages showing that the harasser is repeatedly calling or texting you. It can also be photos, police reports, or medical reports if you were physically or sexually assaulted. If you have any texts or photos on your phone that you want the judge to see, you need to get them off your phone for the hearing.

Bring three copies of your evidence to your hearing. One for the judge, one for the harasser, and one for you. Make sure you bring them all with you. You can't bring things later or say that you have it at home and could bring it later.

After you present your case, the harasser presents his case. This is his time to tell his story and show any evidence to the judge.

Sometimes before the case starts, the judge will ask you and the harasser to mediate. You do not have to make any agreements in the mediation. **If you are afraid of the harasser, tell the judge.** They might not make you mediate if you are afraid of the harasser.

What if the harasser violates my HRO?

Call the police. Police must arrest the harasser if they believe he violated the HRO. The police do not have to see the violation themselves. Tell them you have an HRO. Ask the police to make the arrest.



Violating an HRO is a misdemeanor crime. Penalties include jail time and fines. The maximum penalties are 90 days in jail and a \$700 fine. The penalties usually are much lower. Penalties for violations increase for the number of violations.

You may also ask to have the court hold the harasser in contempt of court in the harassment case. The court clerk has forms to do this.

Where should I keep copies of my HRO?



Make copies of your HRO and **always keep a copy with you.** Keep a copy in your purse, in your car, at work, and anywhere else it may be needed. Police are more likely to arrest the harasser for violating your HRO if you have a copy with you.

Consider giving copies of your HRO to your landlord, supervisor at work, day care provider, and your child's school.

Chapter 8. Criminal Charges Against Abusers

Has a crime been committed? What should I do?

Anytime you are physically or sexually assaulted (harmed), a crime has been committed. It is also a crime for the abuser to violate your OFP or HRO.

Call 9-1-1 when the assault happens. Usually the police file reports for 9-1-1 calls. They do not always file a report every time they are called. **If you call the police, ask them to file a report.**

Ask for a copy. Anytime a crime is committed you can ask the police to file a police report. If you did not call the police at the time of the assault, you can call them later and ask them to file a report then.

**EMERGENCY
CALL 911**

Never assume an abuser will be charged with a crime just because the police were called, the abuser was arrested, or the police filed a report. **If you want the prosecutor to charge the abuser with a crime, call the prosecutor and tell him/her.** You may want to add more detail to the police report. Let the prosecutor know you want the abuser charged with a crime.

It helps to bring along an advocate or support person when dealing with police and prosecutors. See “Where to Find Help” on page 31. Filing police reports and asking for criminal prosecution is difficult and stressful. It can help to have someone there to support you.

Why would I want to have the abuser charged with a crime?

1. Because you are the victim of a crime. It is against the law to hurt or threaten someone.
2. If convicted the abuser may get jail/prison time or be fined.
3. It may stop the violence.

If convicted of a crime, an abuser may serve jail or prison time. **This does not always happen.** You have the right to tell the prosecutor or the court what type of punishment you think the abuser should get. The prosecutor may consider your wishes in deciding to prosecute and in sentencing an abuser. The court can order the abuser to undergo counseling and treatment. The court can also order the abuser to have no contact with you.

Having the abuser prosecuted for a crime provides you with some protection because:

- the abuser may be jailed
- the court can order no contact
- the court may be able to monitor the abuser's behavior
- The abuser may receive treatment for domestic abuse or drug/alcohol use

The court system is one way to try to stop the violence. Violence does not usually stop without help.

What if I decide I do not want the abuser charged with a crime?

If the police were involved, the decision to press charges is not yours. The prosecutor makes the decision to charge someone. You can ask the prosecutor not to charge the abuser with a crime but it is up to him or her.

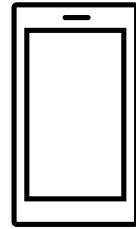
The prosecutor might not charge the abuser if you are not willing to testify. But sometimes they have other evidence and will bring charges anyway.

If the police were not involved, **you should write down the abuse even if you do not want the abuser charged with a crime.** This is helpful for 2 reasons:

1. If the abuser gets violent again, you may need to prove it happened before.
2. If you are ever involved in court hearings such as OFP, child custody, divorce, or child protection, it may help you to show the abuser was violent in the past.

Other things you can do:

- If there is a police report, get and keep a copy.
- If you have any injuries take pictures. **You can ask the police to take pictures for their report.** You can have a friend or advocate take pictures.
- Make sure the notes you write down and the papers you collect are kept where the abuser cannot find them.
- **If you are hurt get medical attention.** Ask your doctor or nurse to write down the cause of your injuries in your medical records. DO NOT make up a story about how you were injured like "walking into a door." It may be very hard later to get the truth out if your medical records do not say what really happened.
- Take pictures if any property was damaged. **If you repair or replace the damaged property keep a receipt.** Keep the damaged property in case you need it later to prove what happened.
- Keep a log or diary of the abuse that happens. Write down each time the abuser assaults you, threatens you, or hurts you. Write down the date and specific information.



For example

June 12, 2020 - Chris pushed me into the bedroom wall. Said, "You're lucky I don't have a gun." Left shoulder was bruised.

Chapter 9. Where to Find Help and Get Court Forms

Where to Find Help

A domestic abuse advocate can help you make plans for your safety. Advocates help women and men that have been abused. To find your local domestic abuse program:

- Call Minnesota DayOne at (866) 223-1111
- Go to Violence Free Minnesota vfmn.org
 - ❖ Click "Get Help"
 - ❖ Click "Find a program near you"
 - ❖ Programs are listed alphabetically by county

REMEMBER: No one has the right to hurt or threaten you. You deserve to feel safe.

You are **not** the only person who has ever had problems like this. **You are not alone.** There are people and laws to help you. Advocates are available to help you and lawyers help too. People who have worked to stop domestic abuse have found that getting an OFP and/or criminal prosecution DOES HELP stop the violence.

Court Forms

OFP (Order for Protection) and related forms can be found on the Minnesota Judicial Branch website at www.mncourts.gov/GetForms.aspx?c=17

HRO (Harassment Restraining Order) and related forms can be found on the Minnesota Judicial Branch website at www.mncourts.gov/GetForms.aspx?c=22

If a district is listed next to a form, the form is for use within that judicial district only. If the word “statewide” is listed, the form can be used in any district in the state.

You can also fill out and file the forms online using the court’s Guide and File interview. This program helps you create the forms to ask the court for an OFP or HRO. The same interview works for both an OFP or an HRO. The interview asks you questions and then uses your answer to fill out the forms. You can file your forms with the court electronically. Or you can print your forms and take them in person to the courthouse to file.

To start the Guide and File interview:

- Go to <https://minnesota.tylerhost.net/SRL/SRL>
- Click “Ask for a MN Restraining Order”

Notice to end lease due to fear of violence (Minn. Stat. § 504B.206)

Date: _____

Dear Landlord:

Minnesota law (Minn. Stat. § 504B.206) lets me break my lease because I, or another person authorized to live in my home, fear imminent violence because of an incident of domestic abuse, stalking, or criminal sexual conduct. This is my notice that I am breaking my lease because of fear that I or another person authorized to live in my home will become the victim of domestic or sexual violence again if I do not move.

I will move out on: _____
(Date –this may be any date before the end of your lease)

I am attaching a copy of the *(check one)*:

- ☐ Order for Protection
- ☐ No Contact Order
- ☐ Documentation from a Court Official or Law Enforcement Official
- ☐ Documentation from a qualified third party-- licensed health care professional, domestic abuse advocate, or sexual assault counselor

If any of my property is left behind after I move *(check one)*:

- ☐ You may get rid of my property right away
- ☐ Please store my property for 28 days and I will be responsible under the statute for storage fees as required by Minn. Stat. § 504B.271.

I understand that my security deposit will not be returned to me in exchange for me being able to break my lease early due to imminent fear.

I request that you do not give the information in this letter or the attached document to anyone, especially not my abuser, as required by Minn. Stat. § 504B.206.

Signed: _____

Printed Name: _____

[Keep a copy of this letter and the document you attached for your records]

Statement by qualified third party (Minn. Stat. § 504B.206)

I, _____ (*name of qualified third party*), do hereby verify as follows:

1. I am a licensed health care professional, domestic abuse advocate, as that term is defined in Minn. Stat. § 595.02, subdivision 1, paragraph (l), or sexual assault counselor, as that term is defined in Minn. Stat. § 595.02, subdivision 1, paragraph (k), who has had in-person contact with

_____.
(*name of victim(s)*)

2. I have a reasonable basis to believe _____ (*name of victim(s)*) is a victim/are victims of domestic abuse, criminal sexual conduct, or stalking and fear(s) imminent violence against the individual or authorized occupant if the individual remains (the individuals remain) in the leased premises.

3. I understand that the person(s) listed above may use this document as a basis for gaining a release from the lease.

I attest that the foregoing is true and correct.

(*Printed name of qualified third party*)

(*Signature of qualified third party*)

(*Business address and business telephone*)

_____ (*Date*)

[Keep a copy of this letter and the document you attached for your records]



Education for Justice

A project of the Minnesota Legal Services Coalition
www.mnlegalservices.org