

## Can the Final Protection Order Be Extended?

There are two reasons for the judge to choose to extend a final order. If you can show that, after the final order, the abuser continued the abuse, or, if the abuser engaged in a pattern that indicates continued risk of harm, the judge may extend the final order. In any case, you must file the petition for an extension before the end of the original order.

The judge may also extend the final protection order as part of a contempt proceeding.

## Domestic Violence Programs

Domestic violence services are offered in every county in Pennsylvania. These services include crisis hotlines, safety planning, safe homes or shelters, legal advocacy, community education, counseling, systems intervention, transportation, as well as information and referral. A domestic violence counselor may be available to help an abused person seek a protection order. Your local domestic violence hotline is available 24 hours a day, and all services are confidential. For more information, look in the blue pages of your local phone book, or call 800-799-SAFE for contact information.

## How Can I Locate an Attorney?

Many people choose to be represented by a lawyer in PFA cases. Call the PBA Lawyer Referral Service toll free at 800-692-7375. Most counties have this same service at the local level. Check your Yellow Pages under “attorneys” for more details. In addition, you can contact your local legal services office to see if they can provide legal representation to victims of domestic violence who are seeking protection from abuse.

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# Protection From Abuse

## Consumer Legal Information



Pamphlets

by the

PENNSYLVANIA BAR ASSOCIATION

## Abuse — How To Get Protection

If you have been threatened or assaulted, contact your local police department. If you need to file for a protection order and the courthouse is closed or a judge is not available, papers may be filed before a Magisterial District Judge or Municipal Court Judge.

## What Is Abuse?

Under the Protection From Abuse Act, abuse is defined as any of the following:

1. Attempting to, or intentionally or recklessly causing bodily injury, serious bodily injury, rape, spousal sexual assault or involuntary deviate sexual intercourse with or without a deadly weapon;
2. Placing another in reasonable fear of imminent serious bodily injury;
3. False imprisonment, as defined under the crimes code;
4. Physically or sexually abusing minor children; and/or
5. Knowingly engaging in a course of conduct or repeatedly committing acts toward another person, including following the person, under circumstances which place the person in reasonable fear of bodily injury.

The act does not cover emotional abuse.

## Who Can File for Protection Under the Act?

You can file for protection if the person who has threatened or is trying to harm you is:

1. or was your spouse;
2. or was living with you in a common-law marriage or as your boyfriend/girlfriend;
3. the parent of your child;
4. your child;
5. or was a sexual or intimate partner;
6. your parent; or
7. related to you by blood or marriage.

An adult or emancipated minor can file for a protection order. If the abused person is a minor, then a parent, adult household member or guardian ad litem can file on behalf of the child.

## How and Where Can I File for a Protection Order?

Filing procedures are different in every county. Please contact your county courthouse, domestic violence program or legal services office for more information on the filing procedures in your county. In some counties, it is required to notify the accused party of the presentation of the petition if a divorce action is pending. Filing a protection from abuse petition does not require a prepaid fee.

## How Do I Receive a Temporary Protection Order After Filing a Petition for Protection From Abuse?

After filing a petition for protection from abuse, a judge will review the case to determine if a temporary protection order should be granted. The judge's decision at the temporary order proceeding is based only on one person's statement — the person who is claiming to be abused. If the judge believes that abuse has occurred, he/she will issue a temporary protection order and schedule a final order hearing that should be held within 10 days.

## How Is the Abuser Notified of the Temporary Protection From Abuse Order?

The abuser must be served with notice of the temporary protection order and the final order hearing date. Generally, the sheriff's department or a local law enforcement agency will serve the court order on the abuser. Once the abuser is served, he/she can be arrested for violating the terms of the court order.

Special Note: This pamphlet has been issued to inform and not to advise. It is based on Pennsylvania law. The statements are general, and individual facts in a given case may alter their application or involve other laws not referred to here.

## What Is the Difference Between a Temporary and a Final Protection Order?

### Temporary order:

- Sets forth temporary restrictions against the abuser meant to immediately protect the person(s) filing for protection.
- Only the person (“party”) seeking protection and witnesses (if any) for that person give statements.
- Sets the hearing date for the final order hearing.
- Expires after 10 days, unless extended.

### Final order:

- Sets forth restrictions against the abuser meant to protect the person(s) filing for protection for as long as the order lasts.
- At the hearing, both people (“parties”) provide evidence, and witnesses for both can testify.
- Can be for a period of up to three years, unless extended.

## How Do I Get a Final Protection Order?

A final protection order can be granted in two ways, either after a hearing or by an agreement between both parties. If there is a final order hearing, both the person claiming to be abused and the alleged abuser are given a chance to tell the judge his or her side of the case and provide evidence. The judge can grant the final protection order, or deny the final order request and dismiss the protection order case.

The person seeking protection and the abuser can also have a final protection order entered by agreement. The parties can give the judge a written agreement before or at the time of their final order hearing. The parties can also appear before the judge at the scheduled time of the hearing and tell the judge the terms of their agreement on the record.

The judge may issue the final protection order for up to three years.

## What Protection Can the Court Order?

The court may grant any protection order or approve any agreement meant to bring an end to the abuse.

A protection from abuse order may include some or all of the following:

1. direct the abuser not to abuse, threaten, harass or stalk you or your minor children (temporary or final order);
2. direct the abuser to stay away from the house or apartment where you live, even if that is also the abuser’s home (temporary or final order);
3. direct the abuser to stay away from your school or where you work (temporary or final order);
4. direct the abuser to refrain from harassing you, your friends or your relatives (temporary or final order);
5. prohibit the abuser from having any guns or gun permits (temporary or final order);
6. award you temporary custody of your children, and depending on the degree of abuse, award visitation or supervised visitation or deny visitation to the abuser (temporary or final order);
7. grant you temporary support for yourself and for the abuser’s children (final order only);
8. direct the abuser to pay you for losses resulting from the abuse. These could include, for example, medical bills, lost wages, relocation expenses, and attorney’s fees (temporary or final order);
9. grant any other relief or terms necessary to bring an end to the abuse. Sometimes this relief will include requiring the abuser to attend a domestic violence program (temporary or final order).

## What Help Is Available at Night, on Weekends or When the Courthouse Is Closed?

In case of an emergency or if you’ve been threatened or assaulted, contact your local police department. If you are in immediate and present danger of abuse, a petition for protection from abuse may be filed with a Magisterial District Judge, or in Philadelphia, before a Municipal Court Judge.

If the hearing officer believes that you are in immediate danger, he/she can grant you an emergency protection from abuse order. The hearing officer will then advise you on what procedures need to be followed to obtain a final protection from abuse order.

## I Am Afraid of My Abuser and Am in Hiding. Can I File for Protection and Keep My Address a Secret?

The addresses of domestic violence agencies/shelters are protected by law. In addition, if you request address confidentiality, and a judge decides that you are in danger, the judge can direct police, social service agencies and school districts to keep your address and telephone number confidential.

## Is My Protection Order Enforceable in Another County?

Yes. The Pennsylvania State Police maintains a registry of all protection from abuse orders issued throughout the commonwealth. A court will enforce a valid protection order that is issued in another county and recorded in the Pennsylvania State Police Registry.

## Is Another State’s Final Protection Order Enforceable in Pennsylvania? Is a Pennsylvania Protection Order Enforceable in Another State?

Yes, if it is a final order issued after the abuser received notice of the hearing and had the opportunity to be involved in that hearing, even if the abuser failed to appear or the order was entered based on an agreement.

## What If the Abuser Violates the Order?

If the abuser violates any terms of the order (“provisions”) designed primarily for your safety, such as provisions that keep the abuser from your home, provisions regarding child custody and

provisions that specify no abuse, no contact, no harassment, and/or no stalking, you should immediately call the police and report the violation. A police officer can arrest the abuser, even if he/she does not witness the abuse. If the abuser used or threatened you with any weapons during past abuse, or while violating the order, the officer must take all those weapons after the arrest.

An abuser can be charged with “contempt of a protection order” for violating the order. After a hearing, the court can find the abuser in contempt and sentence him/her to jail for up to six months and/or fine up to \$1,000. The abuser can also face other criminal charges.

You can also file a private complaint for enforcement of the protection from abuse order.

If the abuser violates support provisions of the order, such as child or spousal support, contact the local domestic relations office. If the abuser fails to comply with provisions that require that your losses be repaid, or certain other provisions, you may file a civil contempt complaint.

## What If I Want to Change the Order?

Because the order is a legal document, only a judge can change restrictions or terms in the order; the parties themselves cannot make different arrangements. If you want to change the order, you must file a petition with the court asking that the order be changed or “modified.”

## What If I Want to Live With the Abuser After Receiving a Final Protection Order?

Any provision that an abuser must not abuse the victim(s) remains in effect even if the parties are living together. However, if you choose to live with the abuser after receiving an order excluding the abuser from your home, you should file papers with the court asking the court to change the order to read that the abuser may live with you, but still must not abuse you and/or other people named in the order.