

## [Can I get an Order of Protection?](#)

You can ask for an Order of Protection if the person abusing you or threatening you is a family member, intimate partner, or former intimate partner. You can also ask for an Order of Protection if someone is stalking you, has sexually assaulted you, or has assaulted you, whether or not you have had an intimate relationship with that person.

## [I think I want an Order of Protection. What do I do first?](#)

First, please talk to a victim advocate. A victim advocate can help you decide if an Order of Protection is right for you. Sometimes an Order of Protection would not be in your best interest. An advocate can help you figure out if an Order of Protection would help you or not. S/he can also give you more information about how to apply for an Order of Protection.

## [What do I do next?](#)

You file a petition for an Order of Protection in court. There is no cost. You have to sign an affidavit about what your abuser has done to you. An affidavit is a form that you swear is true and sign in front of a notary or a Judge. If the court finds you are in danger of harm, you will first get a Temporary Order of Protection. Then a hearing will be set. You must attend the hearing if you want the Temporary Order of Protection to stay in place. Your abuser can attend the hearing, too. S/he can tell his or her side of the story to the judge. At the hearing, the judge will decide if you should have an Order of Protection. An Order of Protection can last a few days, months, years, or be permanent.

## [Where do I file an Order of Protection?](#)

A petition for Order of Protection can be filed in city, justice, or district court. If you and the other party have a family law case happening in district court, the petition must be filed in district court. A family law case includes dissolution and parenting plans.

## [Do I need an attorney?](#)

You do not need an attorney to get an Order of Protection. But it may help you to talk to an attorney before you file a petition for an Order of Protection. It may help you to talk to an attorney before your hearing or to have an attorney help you at the hearing.

**You may choose to represent yourself. If you ask a court to grant you an Order of Protection, the following information will help you understand the hearing process and preset your case effectively.**

## [Do I have to go to the hearing?](#)

Yes. If you are the Petitioner and do not attend the hearing, the court will dismiss your case, which means that you will not receive an Order of Protection.

## **What if I cannot attend?**

If you absolutely cannot attend the hearing because of an important reason (such as sickness, job interview, family emergency, etc.), you should call the court in which your hearing is set and ask that the hearing be rescheduled. Some courts may require you to file a document called a “motion for continuance”.

## **How do I prepare for the hearing?**

Decide the relief you want the court to give you. You will be asking the judge to grant you an Order of Protection against the person who abused you or threatened to abuse you. You need to tell the judge specifically what you want the Order to say. You can ask the judge to:

- Order the Respondent not to hurt you;
- Order the Respondent not to harass or otherwise disturb you (and/or your children);
- Order the Respondent not to contact you (in person, through 3rd parties, through writing, by email, by telephone, etc.);
- Order the Respondent to stay a specific distance from you, your residence and/or your place of employment;
- Order the Respondent to vacate the home you are living in;
- Order the Respondent to allow you access to your personal property;
- Order the Respondent not to possess a gun or other dangerous weapon;
- Order the Respondent to attend batterer’s intervention counseling or drug/alcohol counseling.

## **Decide the evidence you want to use.**

Evidence is what you present in court to prove that the Respondent has harmed or may harm you (and/or your child). Evidence can be your testimony, the testimony of witnesses, documents, photos, or objects such as torn clothing or a weapon.

## **What happens at the hearing?**

If the Respondent does not appear at the hearing, the judge may grant an Order of Protection for you without considering any evidence or may require you to present your evidence so that s/he has it on the record. It is likely (but not guaranteed) that if the Respondent does not appear, you will be granted an Order of Protection. If the Respondent appears and agrees that an Order of Protection should be granted, the judge will probably grant one for you.

## **Your Case**

If the Respondent appears and disagrees that an Order of Protection be granted, the judge will probably ask you to present your case (your side of the story) first.

This includes:

- Being sworn in to testify truthfully;
- Taking the witness stand;
- Presenting your evidence;
- Asking for the specific relief you need.

The judge may ask you specific questions about the situation. After you have finished, the Respondent will have a chance to ask you questions. After the Respondent has finished asking you questions, you will have the opportunity to ask questions of your witnesses. After each of your witnesses is done testifying, the Respondent has the opportunity to ask them questions.

### **Evidence for Petitioners**

“Evidence” is what you present in court to prove that the respondent has harmed or may harm you (and/or your child). Evidence can be your statements (called “testimony”), documents, photos, or objects such as torn clothing or a weapon. The following are examples of the types of evidence that can be used to show the judge that you are in danger and need an Order of Protection.

### **Your Testimony**

You should tell the judge why you want the Order of Protection, including why you are afraid of the respondent. You should include information about times when the respondent abused you. If there have been many abusive times, you should focus your testimony on the most recent and the worst.

- Describe each time you were abused by telling “who, how, when and where”.

### **You can tell the judge about:**

#### **Abuse**

Example: “The respondent and I were in our house on June 1, 2004. He got mad and called me names like “b#@\$%.” He shoved me, my head hit the wall and I blacked out. My child saw it all. I did not go to the hospital because I was afraid.”

#### **Threats of abuse**

Example: “I was stopped at the stoplight in my car when he pulled up next to me. When I looked over, he pointed his finger at me like he was pretending it was a gun and he ‘shot’ me.”

#### **Past Protective Orders**

Example: “I had a Protection Order against the respondent in Wyoming in 2000. I dismissed the order because respondent promised he would get counseling. He didn’t and now I know that I need to keep the Order of Protection until he finishes counseling and changes his behavior.” You should tell the judge about Protective Orders you have dismissed and explain

why. You should make it clear that you do not intend to dismiss the Protective Order you are requesting now until you feel sure that you no longer need it.

## **Violence Against Others and Animals**

Example: “The respondent beat up his sister in 1998 in Dillon. He punched her and gave her a black eye. He was arrested and convicted of assault. Also, he would play a “game” in front of our son. He would pull the cat’s tail until the cat tried to scratch him – then the respondent would punch and kick the cat.”

## **Testimony of Witnesses**

You can ask people who have seen or heard the abuse (and/or threats), or saw you after the abuse and/or threats, to testify at the Order of Protection hearing.

The following are examples of people that you may ask to testify:

- Family, Friends, Neighbors
- Medical Providers, Counselors, Dentists
- Police Officers, Victim Advocates
- Teachers, Clergy

## **Physical Items**

You can present physical items as you testify in order to prove that you have been abused (and/or threatened). You should ask the judge to “admit” such items as evidence. Some examples of items include:

- Physical injuries
- Torn/bloody clothes
- Damaged property
- Police reports
- Medical records
- Photographs
- Bills/Invoices
- Letters, emails
- Voicemail messages

## **How can I make sure the judge considers my evidence?**

The judge will consider the evidence that s/he is allowed to consider based on the law. It is likely that the Respondent (or his attorney) will “object” to some of your evidence. If that happens, don’t worry - just be prepared to explain to the judge why you think the evidence should be considered.

## **Respondent's Case**

After you have presented your side of the story, the judge will allow the Respondent to present his/her evidence, including having his/her witnesses testify. If you disagree with what the Respondent or witnesses say, don't interrupt. You will have a chance to ask the Respondent questions after he/she has testified. You will also have a chance to ask witnesses questions after each has testified and you can use those opportunities to show that the evidence you disagree with is either false or taken out of context. You also will be given the opportunity to testify in response to issues the Respondent brings up that you did not discuss while you presented your case. After both you and the Respondent have finished presenting your cases, the Judge will make a decision as to whether or not to grant an Order of Protection for you.

### **What if my abuser violates the order of protection?**

Violation of an Order of Protection is a crime. You should call local law enforcement immediately. The abuser may be arrested. You should also keep a written diary of all the times the abuser violates the Order of Protection. It could help law enforcement and the prosecutor file criminal charges against the abuser. Only the respondent (or abuser) under an Order of Protection may be cited for a violation; the petitioner (you) who filed for the order may not be cited. A violation of any terms of an Order of Protection is punishable under MCA [45-5-626](#). If the respondent (abuser) violates an Order of Protection, he or she may also be charged with other crimes such as trespassing (MCA [45-6-203](#)) and stalking (MCA [45-5-220](#)).

### **How do I protect myself at court?**

- Sit far away from the abuser.
- Bring a friend, relative, or a Crime Victim Advocate with you.
- Ask the judge to keep the abuser there for several minutes when court is over and leave quickly.
- If you think the abuser is following you when you leave, call the police immediately.

### **How do I protect myself at home?**

- Learn places where you can get help.
- Keep a phone in a room you can lock from the inside. Get a cellular phone that you keep with you at all times.
- Plan an escape route out of your home to a safe place. Teach it to your children.
- Set up a plan with your neighbors to signal them when you need them to call the police.
- Pack a bag with important things. Keep it ready in case you have to leave quickly. Put it in a safe place or give it to someone you trust. Make sure the bag has cash, keys, court papers, passports, birth certificates, medical records, medicines, formula, diapers.
- Take a self-defense course.

If your abuser has moved out:

- Change the locks on doors and windows.
- Ask neighbors to call police if they see the abuser at your house.
- Get an unlisted phone number.

### **What if I am threatened or attacked in my home?**

- Stay away from the kitchen, where the abuser can find weapons like knives.
- Stay away from small spaces such as bathrooms, closets.
- Call 911.
- Get to a room with a door or window. Lock the abuser out if you can.
- Run to a neighbor or a public place.

### **How can I help my children be safe?**

- Teach them to not get in the middle of a fight, even if they want to help.
- Teach them how to get to safety, call emergency numbers, and give your address and phone number to police.
- Give the school/daycare a copy of your Protection Order. Tell them not to release your children to anyone without talking to you first. Use a password so they know it's you on the phone. Give them a photo of your abuser.
- Make sure the children know who to tell at school if they see the abuser.
- Make sure the school will not give out your address or phone number.

### **What are other ways I can protect myself?**

- Change your regular travel habits.
- Get rides with people.
- Bank and shop at different places.
- Cancel bank accounts or credit cards you shared with the abuser and open new ones.
- Keep a cell phone. Program it to speed-dial emergency numbers.
- Keep your Order of Protection with you always. It is valid in all states.

### **How can I protect myself at work?**

- Keep your Order of Protection with you.
- Give a picture of your abuser to coworkers and security guards.
- Tell your supervisors about your abuser. Ask them to help you.
- Don't go out alone.
- Ask a security guard or co-worker to walk you to your car or bus.
- If your abuser contacts you at work, save the voice mail or email and tell your supervisor.