



## Orders for Protection and Harassment Orders

### What is an Order for Protection?

An Order for Protection (OFP) is a court order to stop household or family violence. An OFP is not a criminal case. It takes place in family court. The court can order things that keep the abuser away from you and your home or order them to get counseling or treatment. The OFP can also have orders about child support, custody, or parenting time (visitation). The OFP is a one-way order that stops an abuser from doing things. It does not stop the person being abused from doing things. If it is violated, the abuser gets in trouble, not the person being abused.

### What is family violence (domestic abuse)?

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

### Who can get an OFP?

You can get an OFP to stop abuse by:

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



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

### I am a minor. Can I get an OFP?

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

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

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

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

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

## Where do I file for an OFP?

You can file for an OFP in:

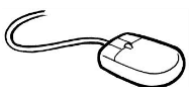
- The county where you live
- The county where the abuser lives
- The county where the family violence incident happened
- The county where there is a family court case – either pending or completed. And the case involves you and the abuser or your minor children, or
- In the court that's handling your divorce, if you are going through a divorce



## How do I file an OFP?

1. Go to the courthouse or call the family violence / domestic abuse office at the courthouse and tell them you want to file an OFP. There are family violence / domestic abuse programs that can help with the process. Their services are free and confidential. To find one in your area call the National Domestic Violence Hotline at (800) 799-7233 or (800) 787-3224 (TTY) or text "START" to 88788.
2. A court clerk or an advocate can give you the forms you need and help you file papers telling the court what happened, and what you want. **OR**

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



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

File electronically or take the completed forms to the courthouse to file.

3. You do not have to pay a filing fee.
4. **You do not need a lawyer.**
5. If you need protection from danger right away, ask for an “ex parte” order. “Ex parte” means without telling the person you want to be protected from. The order is signed the same day you apply before the abuser is served. An ex parte order protects you until there is a hearing.

If the judge doesn't think that an “ex parte” order is needed, the case is dismissed. The other person won't be told you filed - UNLESS you ask the court for a hearing because you don't agree that they didn't give you the “ex parte” order.

6. In most cases, you have a hearing within 14 days. It is within 7 days if you got an ex parte order.

In some cases, you can get an OFP without having a court hearing.

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

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



### **Who will know if I file an OFP?**

It depends on what kind of OFP you file.

- If you file an OFP “**ex parte**” and it is granted, the abuser won't know about it until they get a copy of the OFP served on them.
- If you file for a **regular OFP**, the police “serves” (gives a copy of the documents to) your abuser, and there may be a hearing.
- **Custodians:** If you have children, you have to include information in your application about your children's **custodians**. You have to do this **even if they are not the abuser's children**. Custodians are anyone who
  - has a legal obligation to care for and support the children, or
  - is actually providing care and support to the children.

A custodian could be someone on your child's Recognition of Parentage (ROP), someone who shares custody of those children with you, or other people. **This does not include people whose parental rights have been terminated.**

Talk to a lawyer to make sure someone meets the definition of custodian before you put them on your OFP application. This is especially important if you are afraid that letting them know will tell your abuser you plan on filing for an OFP.

**Note: An OFP petition can't be rejected or denied even if you don't serve a custodian.**

## What can I ask the court to do?

You can ask the court for many different things:

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



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

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

## Does an OFP affect custody?

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

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

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

An OFP may also affect custody because custodians of your children will find out that you filed an OFP. This can happen even if they don't have parenting time with those children. Talk to a lawyer if you are worried that a custodian might file for custody or parenting time if they find out about the OFP.

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

## The Hearing

**You must show up for the hearing!** If you do not, the OFP will be dismissed. You can have an advocate or lawyer with you, but you do not have to.

There is no right to a free lawyer in an OFP case. If you have a low income, you might be able to find free legal help. Try your local legal aid office at 1-(877) 696-6529. Or look for help from other programs at [www.lawhelpmn.org/providers-and-clinics](http://www.lawhelpmn.org/providers-and-clinics).

**If you can't go to the hearing**, you can ask for a hearing on another day (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).

**At the hearing**, you tell the judge what happened. If you have evidence that you want the judge to look at, like police reports, medical records, or photos, make sure you bring several copies with you. You need to share them with the abuser too. Also bring witnesses who saw the abuse or your injuries or heard you or the children being threatened.

If you want both you **and** your children covered by the OFP you need to show that there has been family violence (domestic abuse). Otherwise, the judge may issue an order that only protects you or only protects the children.



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

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

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

If the judge gives you an OFP, make copies. **Keep a copy of the OFP with you at all times!** Also keep one in your home and one in your car. If the OFP covers your children, give a copy to their school or childcare.

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

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

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

You can make certain changes to your OFP. Like if you move to a new home or if your child starts going to a different school. If you need to make changes, file a request with the court and the judge has to approve it.



### **What can I do if the abuser violates the OFP?**

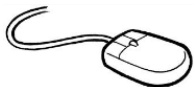
If the abuser threatens or harms you or the children, or comes to your home, it is a violation of the OFP. The abuser can't contact you by phone, email, text message or social media. That is a violation of the OFP. The abuser can't have a friend or family member send a message to you for them.

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

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

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

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



- Click on “Get Forms”
- Click on “Domestic Abuse”
- Click on “Contempt”

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

### **What if the police or sheriff won’t arrest the abuser?**

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

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

### **What if I let the abuser into my home?**

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

### **Do I need a court hearing to get an OFP?**

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

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

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



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

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

### **Is my OFP good in other states?**

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



### **MFIP and OFPs**

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

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

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

### **Harassment Orders**

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

### **What is Harassment?**

"Harassment" can be:

- a single incident of physical or sexual assault,
- a single incident of giving out private sexual images without permission (revenge porn), or
- repeated incidents of intrusive or unwanted acts, words, or gestures that the harasser uses that get in the way of your safety, security, or privacy. This can be things like:
  - threatening to hurt you or your property,
  - stalking or following you,
  - repeatedly mailing or delivering objects to you, or to others about you,
  - repeatedly recording you on film or taking photographs of you,



- repeatedly posting about you on social media like Facebook, Twitter, Instagram, TikTok, or other websites, or
- unwanted phone calls or text messages.

## Who can get a Harassment Restraining Order?

Anyone can get a harassment restraining order (HRO) for themselves or on behalf of a child if there have been incidents of harassment against their children. You may also get an HRO on behalf of another person who is an adult if you have guardianship. You can get an HRO against any other adult person or child.

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

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

OR

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



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

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

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

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

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

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

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