

Frequently Asked Questions about Civil Protection (Restraining) Orders

What is a protection order?

- Also known as a “restraining order,” a civil protection order protects one individual from another individual’s actions or threats. A protection order is often used in domestic abuse cases and typically restricts the actions of the restrained individual from harming or approaching another.

Where do I go to get a protection order?

- Local law enforcement have procedures to obtain an emergency protection order on your behalf when the courts are not open for regularly scheduled business. During normal business hours, please go to your [County Court](#) to file for a protection order.

Can I get a protection order?

- Any victim of domestic violence or any victim of violence or anyone in fear of personal harm may ask the court for a protection order.
- If you are a victim of domestic abuse (13-14-101(2), C.R.S.), stalking (18-3-602, C.R.S.), sexual assault (18-3-402(1), C.R.S.), unlawful sexual contact (18-3-404, C.R.S.) abuse of the elderly or an at-risk adult, physical assault, threat or other situation. For further information, please see the referenced statutes by visiting our website www.courts.state.co.us and clicking on “Legal Community,” then “Colorado Revised Statutes.”

Who can I get a protection order against?

- A protection order may be issued against any adult or juvenile who is ten (10) years of age or older.

I have children in danger also; can I obtain a protection order for them, too?

- Yes. If the person you are attempting to restrain is a parent of the child(ren), you must also fill out and file the Affidavit Regarding Children ([JDF 404](#)). If the person you are attempting to restrain is *not* a parent of the child(ren), simply include the child(ren) under the “Protected Persons” section of your Verified Complaint/Motion for Civil Protection Order ([JDF 402](#)).

What are the advantages of civil protection orders?

- As in any court proceeding, there are advantages and disadvantages. The advantages of civil protection orders are speedy relief, personal protection and ease. Speedy relief means a judge can typically decide a temporary protection order on the same day you file it. A protection order can do more than order the other party from harming you. The order can remove him or her from your home, give you temporary care and control of your children, order the Defendant to stay a certain distance from your home, your work, your child(ren)’s day care and any public place that you frequent. The order can also set parenting time arrangements if there are children involved or deny parenting time if the children are being harmed. However, any protection orders against children are only good for 120 days- if you are attempting to obtain custody of your children and/or continue a protection order, you will need to file a domestic relations case in [District Court](#).
- Do understand the Defendant will not go to jail just because a civil protection order is entered. If you have been a victim of a crime, in addition to seeking a civil protection order, you also

should communicate the facts to law enforcement. Also understand that if a civil protection order is entered, and the Defendant violates the order, then law enforcement can charge the Defendant with a criminal offense and, depending on the circumstances, may decide to arrest the Defendant for the violation.

Is there a filing fee to obtain a protection order?

- Yes, the court may assess a filing fee EXCEPT when you are seeking the protection order on grounds of domestic abuse, stalking, sexual assault or unlawful sexual contact. Also, if you are deemed indigent, you may ask the court to waive the filing fees by filing a Motion to File without Payment of Filing Fee ([JDF 205](#)). For more information, please see "[Filing Fees](#)."

Are there forms available to obtain a protection order?

- Yes. To view the appropriate forms and instructions on the courts website for obtaining a protection order, please visit:
http://www.courts.state.co.us/Forms/Forms_List.cfm?Form_Type_ID=24
- This link takes you directly to all forms and instructions for protection orders. Depending on your circumstances, you may need some or all of the forms available online. However, you will need to fill out the Verified Complaint/Motion for Protection Order ([JDF 402](#)) and the Information Sheet for Registering a Protection Order ([JDF 442](#)). The Verified Complaint/Motion is the initiating document to file for a protection order. You should fill this out to the best of your ability, but be specific and detailed about the Defendant, as well as the instances of abuse. The Information Sheet for Registering a Protection Order is also important- this document contains all identifying information about you and the Defendant.
- You may also need the Incident Checklist ([JDF 401](#)) or the Affidavit Regarding Children ([JDF 404](#)). The Incident Checklist does not have to be filed, but you may find it helpful in recalling events and circumstances of the abuse. You may file it along with your Verified Complaint/Motion, but if you do fill it out and don't file it, be aware the judge may ask you to do so. The Affidavit Regarding Children is only required if you are attempting to restrain a parent of the child(ren) to be protected. Please see above.
- Please also read and review Instructions For Obtaining a Civil Protection Order ([JDF 400](#)). This document details step by step the entire protection order process.
- If you need assistance with the forms, you may contact your local domestic violence program, or if applicable your local Self-Represented Litigant Coordinator. Your local county court also provides a packet with all of the available forms to obtain a protection order for a fee.

What information do I need to provide to the court?

- You must be able to state that the Defendant has hurt or threatened to hurt you and that you are in imminent (likely) danger of further abuse or threats if the protection order is not issued. You must give specific information about the abuse- what happened, when and where it happened, who was present during the alleged abuse and whether any children were present at the time. You may also include any abuse that occurred in the past.

What is a temporary protection order?

- When you go to County Court, you will fill out and file the verified complaint/motion for a protection order. Typically, on that same day, you will have a hearing before the judge; the

Defendant will not be present. If the judge determines that you are in imminent danger of further abuse or threats if the protection order is not granted, the court can order the Defendant to stay a specific distance from your home (even if the Defendant lives in the same residence), from your job, your child(ren)'s school or day care, from friends or family's places and from public places that you frequent. This order is only temporary and usually lasts around fourteen (14) days or until your scheduled permanent protection order hearing. If you want the protection order made permanent, please read below.

What happens after I get a temporary protection order?

- In the event you are granted a temporary protection order ("TRO") the court will give you a new date to appear in court. This new court date will be a hearing on whether to make your TRO permanent and usually takes place around fourteen (14) days from your TRO hearing. You must have the Defendant personally served with the TRO. Service means you are notifying the Defendant that you have obtained a court order and it is in effect. You may contact your local Sheriff or Police Departments who can serve the Defendant for a fee. You may also contact a local process server. You CANNOT serve the Defendant yourself. Please review Colorado Rules of Civil Procedure, Rule 4 (e) here:
 - <http://www.lexisnexis.com/hottopics/colorado/> and watch this how-to video on service of process: <http://bit.ly/SOPinCO> . The Defendant may also be served by anyone, at least 18 years old, not a party to the action, with an understanding of the rules of service of process. You must provide the process server with a copy of your Verified Complaint/Motion for Protection Order, the Temporary Protection Order and an Affidavit of Service to serve Defendant.
- Once you have the Defendant served, you will need to file proof with the county court that you did so. This proof is called an Affidavit of Service ([Form JDF 98](#)). Whoever you had serve the Defendant must swear under oath they actually served the Defendant. This means that person must give details on how service was made and may sign the Affidavit either in front of the clerk at the court or in front of a notary public.
- If you cannot get the Defendant served, you will still need to appear in court on the hearing date and request a continuance so you may persist in trying to get the Defendant served. If you do not appear, the TRO will automatically expire.
- You should keep a copy of the TRO on your person at all times. You may also provide a copy of the TRO to any place the court ordered Defendant restrained, such as your work and your child(ren)'s daycare.

What is a permanent protection order?

- A permanent restraining order (PRO) is virtually the same as a temporary restraining order, as it can restrain a Defendant from your home, your work and public places you may frequent, as discussed above. The difference is a PRO has no expiration date and lasts forever.

What happens at the hearing?

- If you have been successful in serving the Defendant before the permanent hearing and the Defendant does not appear in court, the judge may order the TRO be made permanent. The court may still ask you questions about the circumstances and events surrounding the TRO. However, the Defendant has a right to appear at the hearing and contest that the TRO should be made permanent. In that event, you must be prepared to present your evidence, such as your own testimony, testimony of witnesses, photographs of documented abuse, etc. You have the burden of proof to show by a "preponderance of the evidence" that you are in imminent danger

of further abuse or threats if the protection order is not made permanent. “Preponderance of the evidence” means the greater weight of evidence, or evidence that is more credible and convincing. There are evidentiary standards also that determine what you can and cannot offer as evidence in court. Please contact your local domestic violence program, or if applicable, your local Self-Represented Litigant Coordinator for further information and assistance. Please also refer to our website: www.courts.state.co.us , click on “Legal Community,” then “Colorado Revised Statutes.” This will take you to a page that allows you to view the Colorado Rules of Evidence.

- It is also possible that the Defendant can agree to allow the TRO be made permanent, although s/he may dispute what you say is the truth. The court also has the authority to extend the TRO for an additional 120 days at most, if the parties agree. You will then be given another hearing date, at which point you may ask the court enter the TRO as permanent or if the threat has passed or you no longer feel you are in harm’s way, you may ask it be dismissed.
- If the Defendant does not appear and there are new circumstances or the temporary protection order needs to be changed and the court grants you the PRO, you will have to get the Defendant personally served with the new PRO. If the PRO is the same as the TRO, you are not required to have the Defendant personally served again.

How is the protection order enforced and what do I do if it’s been violated?

- If the Defendant does anything prohibited by either the TRO, prior to your permanent hearing, or the PRO, it is your responsibility to call law enforcement. It is a crime in Colorado for a person to violate a protection order. If the responding officer(s) has “probable cause” to believe the Defendant violated the protection order, s/he must arrest the Defendant and take the Defendant to jail. Probable cause means that a reasonable person reasonably believes that a crime has been committed.
- If the police tell you the Defendant cannot be charged, ask for a copy of the incident report; this will document what has happened and can come in handy in the future. If the police do arrest the Defendant, but the prosecuting attorney decides not to bring charges, you may file a Motion for Contempt to enforce the protection order. Please see the Verified Motion for Contempt Citation ([JDF 413](#)).

How do I get a protection order dismissed or modified?

If you are the protected person, please see Instructions for Protected Person ([JDF 396](#)). You may apply to have the TRO/PRO modified or dismissed entirely at any time. A modification may be a time limit on the TRO/PRO.

- Prior to filing your Motion to Modify/Dismiss Temporary/Permanent Protection Order ([JDF 397](#)) you should determine whether the Defendant has had any convictions after the protection order was initially granted. If s/he does have new convictions, the judge cannot grant a dismissal of your TRO/PRO. If the Defendant is convicted of a misdemeanor involving an act of domestic violence or any felony, then the TRO/PRO shall remain permanent and cannot be dismissed.
- If you are the restrained person, please see Instructions for Restrained Person ([JDF 395](#)). To file your Motion to Modify/Dismiss, four years must have passed after the PRO was issued (or after disposition of any prior motion). If you have been convicted of any misdemeanor involving domestic violence or any felony, the protection order shall remain permanent and will not be dismissed by the court. You must complete a fingerprint based criminal background check prior

to filing your motion and within 90 days of filing your motion. You must also prove to the court that the TRO/PRO should be dismissed because it is no longer necessary.

- If you are either the protected or the restrained person in a *criminal* no-contact or protection order the above process is not correct- you must contact your local district attorney's office and/or domestic violence program. You may also contact, if applicable, your Self Represented Litigant Coordinator, for further information.