

What is a civil protection order?

A protection order is a civil provision with criminal penalties. It can be obtained to restrict or prohibit contact between a victim of abuse and the perpetrator (Idaho Code § 39-6301). **A protection order is a document issued by a civil court that orders the person who is abusing or stalking you to stop doing so.** If the person violates this order they will be criminally punished by the court.

- You can apply for a protection order even if criminal charges have **not** been filed against the person harassing you, or if you have already obtained a Temporary Protection Order as part of a criminal proceeding.
- A family or household member can file for a protection order.
- A parent not claiming to be in immediate danger of abuse can obtain a protection order in her own name as petitioner for her child.
- Protection orders can temporarily modify custody orders issued.
 - It is important to realize that these orders are temporary under a divorce decree.
 - When deciding whether to issue a protection order in this circumstance, courts will apply the “best interest of the child” test. The Court will also require a showing by a preponderance of the evidence of an immediate and present danger of violence.
- Protection orders can last for any period of time, from 14-days to five years.

A protection order can be obtained in one day by applying at the local courthouse and giving a sworn statement detailing the abuse. There is no fee for filing a protection order.

- If the reviewing judge finds there is a likelihood of immediate violence to the petitioner, the judge will issue a 14-day protection order.
- At the 14-day protection order hearing, you will be asked to detail the most recent incident of abuse only. Any evidence you can bring of this is helpful.
 - While threatening phone messages from the respondent can be used as evidence, they are not admissible unless the phone number from which they came and the date and time they were made are available. If your cell phone or caller ID records this information, save it and bring this and the message with you to court.
- If the judge grants a protection order, police officers serve the alleged abuser with the order and a Notice of Hearing.
 - The order **IS NOT** in effect until served. The respondent will be served by law enforcement within 24 hours as long as he/she can be located (it is your responsibility to keep in touch with law enforcement as to the whereabouts of the respondent until he/she is served).
 - Once the protection order has been served, the abuser cannot come up to 1500 feet of you or your house. This distance is five football fields so the abuser should not be able to come onto your block.

- Make copies of the protection order and keep one with you **at all times**. Leave a copy at each address on the order.
- If the abuser violates the order, call the police immediately. If you have any witnesses to the violation (for example, if your neighbor saw your abuser drive by your house) let the police know.
- Keep a written log of violations and abuse and report all incidences of physical abuse to the police.

After the 14-day order expires, you can attend a second hearing to have the order extended for 90 days. If the judge finds at this hearing that good cause exists, the judge will extend the order for 90 days.

- If you fail to attend this hearing, the order will be dismissed. If you wish to extend the protection order you must appear and testify at the 90-day hearing.
- If the 90-day hearing needs to be rescheduled due to a conflict, the temporary 14-day order may be reissued for the time necessary before the new hearing.
- While each party has a right to counsel, attorney representation is not necessary and no court or service fees are charged for either party.
- In addition to limiting or restricting contact between the two parties, the court can provide for custody and visitation of any children involved, award one party possession of the family home, order either party to undergo drug or alcohol screening, or order respondent's participation in counseling and treatment.
 - The respondent may be required to pay attorneys fees, and to reimburse the petitioner for costs incurred in bringing the action, including reasonable attorney's fees (Idaho Code § 39-6306).
 - Under federal law, a judge can, where appropriate, order law enforcement officials to confiscate firearms from a party found to be a threat to petitioner.
 - The respondent may be restrained from contacting, molesting, interfering with or menacing the minor children whose custody is awarded to the petitioner (§ 39-6306).
- Relief will not be denied because petitioner used reasonable force in self-defense against the respondent, or because the petitioner or respondent was a minor at the time of the incident of the domestic violence.

The protection order can be extended for up to one year where appropriate.

- Any out-of-state protection order will be honored in Idaho, without the necessity of formally registering the foreign order in Idaho.