

## ■ What is a Protection Order?

A protection order is a special type of order issued by a judge which orders someone who has been harming another person not to harm that person again.

There are two different types of protection orders:

### [1] Domestic Abuse Protection Order

You can apply for a Domestic Abuse Protection Order if the person abusing you is a spouse, former spouse, a person you currently live with or have lived with in the past, a person you are currently dating or have dated in the past, a person with whom you have a child in common, your child, or another relative. For a domestic abuse protection order to be issued by the court, you must show that your abuser was physically violent to you or threatened you with physical violence and the threat placed you in fear.

### [2] Harassment Protection Order

A Harassment Protection Order can be issued against anyone who is harassing you; it may be a family member, someone you've dated, or a casual acquaintance. Examples of harassing behavior are stalking, following, detaining, or repeated telephone calls. For a harassment order to be issued by the Court, you need to prove that these behaviors frightened you.

There are two other kinds of orders, called restraining orders and criminal no-contact orders. These are not the same as protection orders and are not treated the same by law enforcement if the order is violated.

## ■ What Relief is Available if I am Granted a Protection Order?

A Domestic Abuse Protection Order can include any of the following relief:

- Prohibiting your abuser from restraining you
- Prohibiting your abuser from threatening or assaulting you
- Prohibiting your abuser from contacting you
- Removing and excluding your abuser from your residence
- Granting you temporary custody of your children
- Ordering your abuser to stay away from certain locations, such as your work
- Any other relief that the court deems necessary to ensure your safety

It is important to know that although a Domestic Abuse Protection Order may allow you to obtain temporary custody of your children, the custody order will only last up to ninety (90) days. To obtain a permanent custody order that lasts longer than ninety (90) days, you must proceed with a divorce, legal separation, paternity, or other court action to address the issues of custody and child support.

Relief from a Harassment Protection Order includes:

- Prohibiting your harasser from restraining you
- Prohibiting your harasser from threatening or assaulting you
- Prohibiting your harasser from contacting you

## ■ How Do I Get a Protection Order?

If you believe you need to apply for either a domestic abuse or a harassment protection order, you will need to complete and file an application. These application forms are filed with the court and reviewed by a judge to determine if you are eligible for either protection order.

## ■ Where Do I Get the Forms?

Both the domestic abuse and harassment protection order applications are available at the Clerk of the District Court's office, your local domestic violence program or victim/witness unit, and online at the Nebraska Supreme Court's website under the "Forms" section. You can complete and file these forms without the help of an attorney. The district court clerk will not help you complete these forms, so you may want to contact the local domestic violence program or victim/witness unit for assistance.

## ■ What Information Will I Need to Complete the Forms?

On your application, you will be asked to provide:

- Specific information of recent abusive events including dates, times, and locations
- Basic information about your abuser including date of birth, social security number, and mailing address, along with any descriptive information
- Past or current court cases involving custody, divorce proceedings, juvenile court actions, or other protection orders

While the forms ask for specific information about the abuser, you can still file the application even if you do not know all the information requested.

## ■ What are the Costs for Filing for a Domestic Abuse Protection Order?

You should not have to pay to file a domestic abuse protection order unless the court finds that statements you made in the application were not true. Therefore, you need to make sure that all the information contained in the application is as accurate as possible. The court could also assess the costs associated with applying for the protection order to your abuser.

## ■ What Happens After I Complete the Paperwork?

Once you complete the application for a domestic abuse protection order, the district court clerk will take the forms to a judge. The judge will determine if you meet the requirements for a protection order.

If the court enters a domestic abuse protection order immediately, which is called an ex parte order, a hearing should be set within thirty (30) days of the service of the order upon your abuser.

- If the order is granted, the clerk will provide the sheriff's department with a copy of the order. The sheriff's department will contact the abuser and give the abuser a copy.
- You will also receive a copy of the order and you should keep it with you at all times.
- It is important that you keep the district court clerk informed of how you can be contacted as you will be notified of the date and time of the hearing.
- You should make every effort to attend the hearing as you may need to tell the judge again why you need a protection order.
- Your local domestic violence program or victim witness unit can provide an advocate to accompany you to your court hearing. Simply call the agency and make the request.
- Your abuser will be given a chance to tell the judge why a protection order should not be granted.
- The judge will decide whether to keep the protection order in effect for one (1) year.

## ■ Be aware that the order will not be in effect until the abuser has been served with the order.

If you file your application for a domestic abuse protection order and the judge decides not to issue an order immediately, you and your abuser will be notified by the court of a hearing date. At this hearing, the court will determine whether there is enough evidence to enter a protection order. The court should schedule the hearing date within fourteen (14) days of your application for a domestic abuse protection order.

- **It is important to remember that at this point, you do not have a protection order.**
- You should make every effort to attend the hearing as you may need to tell the judge why you need a protection order.
- The judge will decide whether to issue the protection order. When it is issued, it is in effect for one (1) year.

## ■ What Happens if a Protection Order is Violated?

If you have a domestic abuse protection order and you believe your abuser is violating that order, you should call law enforcement. If law enforcement officers have reason to believe that the protection order has been violated, they will make an arrest and take your abuser to jail. Your abuser will not be released from jail until there is a hearing before a judge. If a person is convicted of a violation, the penalties include up to six (6) months in jail and/or a \$1000 fine. There are stiffer penalties for a person who is convicted of a second or subsequent violation of a protection order.

## ■ What if I Want the Protection Order Dropped?

If you decide you no longer need the protection order, you need to contact the court to ask for the order to be withdrawn. The judge may decide to keep the protection order in effect even if you request that it be dismissed. Protection orders remain in effect for one year or until they are removed by a court action even if you decide you do not need it any longer but have not asked a judge to dismiss the order. You should not be assessed any court costs as a result of dropping the order.

## Other Considerations:

### ■ If I Move to Another State, Will My Protection Order be Enforced?

According to federal law, a valid protection order should be enforced anywhere in the United States. If you move to another state, your Nebraska protection order is still valid.

Many states have laws or rules about how to have an out-of-state protection order enforced. These rules are not the same in every state. For more information, contact local law enforcement, an attorney, court clerk or a local domestic violence program in your area. You may call the National Domestic Violence Hotline at 1-800-799-7233.

### ■ If I Have a Protection Order from Another State, Will it be Enforced in Nebraska?

Nebraska law allows law enforcement to enforce valid protection orders from other states, United States territories, and tribal lands. You can call local law enforcement if your abuser disobeys the order. When law enforcement arrives, you should show them a copy of the protection order. The officer should enforce the order just as if it were issued in Nebraska. It is very important to always have a copy of the order with you.

### ■ Other Federal Laws

There are also federal laws that apply after a valid protection order has been issued. For example:

- It is a federal crime to travel across state lines with the intent to injure an individual and then intentionally commit a crime of violence.
- It is a federal crime to travel across state or tribal lines with the intent to violate a protection order and subsequently violate the order.
- Firearms: Individuals who have protection orders issued against them may be prohibited from purchasing, receiving, and possessing firearms and ammunition.

### ■ What Can the Local Domestic Violence/Sexual Assault Program do for Me?

Protection orders can be very useful and necessary for some people. However, they do have limitations. As you are aware, your abuser may not be deterred by the court order and could still assault you before you are able to call law enforcement for assistance.

Your local domestic violence program or victim/witness unit can assist you in evaluating whether a protection order is the best option for your situation. While they cannot give legal advice, they can help you complete the necessary forms and accompany you through the court process. Additionally, domestic violence/sexual assault programs can:

- Provide confidential support and information 24 hours a day
- Arrange for a safe place for you and your children to stay
- Provide emergency transportation to shelter, court proceedings, medical services, or other community agencies when necessary
- Accompany you to hospital emergency rooms and local medical offices for treatment of injuries or a rape exam
- Make referrals for your other immediate needs

**For information, shelter, support, and assistance with applying for a protection order, contact your local domestic violence/sexual assault program:**

## Other Important Telephone Numbers:

1-800-799-7233  
National Domestic Violence Hotline

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SHERIFF

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POLICE

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ATTORNEY

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COUNTY ATTORNEY

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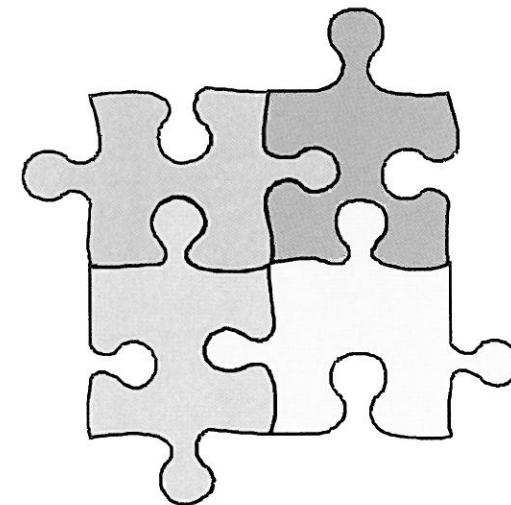
DISTRICT COURT CLERK

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OTHER

# Understanding Nebraska's Protection Orders

A guide for victims, law enforcement, and service providers.



### Provided by:

Nebraska Domestic Violence Sexual Assault Coalition  
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This brochure is not intended to replace the advice of an attorney.