

PROTECTIVE ORDERS IN VIRGINIA

If you are experiencing threatening or violent behaviors, a Protective Order is one tool that may be available to help you.



If you are experiencing acts and/or threats of violence, there are legal options to help you and/or your family.

These options help protect you from violence, force or threat that results in injury or places you in fear of death, sexual assault, or injury. This includes stalking.

WHAT IS A PROTECTIVE ORDER?

A protective order is a document issued by a court to help you protect yourself, your children and other family or household members from someone who is hurting you or causing you fear. A protective order can help to set clear limits with the person causing you harm and can also send a strong message that his/her behavior is wrong.

A protective order is a civil legal remedy for individuals experiencing acts and/or threats of violence. Protective orders are designed to prevent future violence or threats and can also provide a wide range of options to help protect you and/or your family. You can request one even if criminal charges haven't been filed.

WHO IS ELIGIBLE FOR A PROTECTIVE ORDER?

In order to be eligible for a protective order, you must have been subjected to an act or threat of violence that results in bodily injury or places you in reasonable fear of death, sexual assault or bodily injury.

This means that if you have been hit, kicked, punched, pushed, shoved, bitten, burned, sexually assaulted, held against your will, forcefully restrained, cut with an object, stalked, threatened with a gun, or other weapon and any of these things caused an injury to your body; or someone threatened to do any of these things and you are in fear of them, you may be eligible for a protective order.

Where you go to request a protective order depends on the kind of relationship you have (or have had) with the person who is harming or threatening you.

WHERE TO REQUEST A PROTECTIVE ORDER

In Virginia, where you request a protective order depends on the type of relationship you have (or have had) with the person who is threatening or harming you. If your relationship with this person meets Virginia's legal definition of a family or household member (see below), you may be eligible for a **Family Abuse Protective Order** and your request should be made with the **Court Service Unit of a Juvenile and Domestic Relations Court**.

All other requests for protective orders start with the **General District Court**. If either the petitioner (the person asking for the protective order) or the respondent (the person who is committing acts of violence or threatening behavior) is under the age of 18, the request should begin with the **Court Service Unit of a Juvenile and Domestic Relations Court**.

Additionally, the location of the court where you request the protective order can be:

- where you live;
- where the respondent lives,
- where the act of violence, force or threat happened;
- or where a previous protective order has already been issued.

WHO IS CONSIDERED A "FAMILY OR HOUSEHOLD MEMBER"?

To be eligible for a **Family Abuse Protective Order**, the person who is abusing you must be:

- your spouse (husband or wife),
- your former spouse,
- someone that you have a child in common with, or
- someone you live with or used to live with as a boyfriend or girlfriend, in the past year.
- It could also be another family member such as your parents, grandparents, children, brother or sister whether or not you live together. In some cases it could be your in-laws whom you live with. (VA Code §16.1-228, Family or Household Member)

You do not have to have an Emergency Protective Order to apply for a Preliminary or Final Protective Order.

THE THREE TYPES OF PROTECTIVE ORDERS

EMERGENCY PROTECTIVE ORDERS

This order is usually requested by a law enforcement officer (the police) if an arrest has been made, or if the officer believes there is a probability of further abuse. This order can only be issued by a Magistrate or a Judge and lasts only a short time (up to 72 hours or, if that 72 hour period ends when the court is not in session, until 5pm on the next day during which the court is in session). A victim of abuse can also make an emergency request for this order at the magistrate's office even if an arrest hasn't happened. These orders can also be issued without the abuser or respondent being there.

PRELIMINARY PROTECTIVE ORDERS

This order is issued only by a Judge when danger for further abuse exists but there isn't enough time for a full hearing with both parties. This type of order, like an Emergency Protective Order, can be issued without the abuser or respondent being there. A Preliminary Protective Order generally only lasts 15 days but can be extended if the abuser or respondent can't be served.

FINAL PROTECTIVE ORDERS

An order that can be issued for up to two years. These orders are issued if there is enough evidence of an act or threat of violence and both parties are present at court. Then a judge decides whether or not to issue an order. If the abuser or respondent has been convicted for an act of violence that leads to a protective order and the victim requests it, a judge can issue a protective order that lasts as long as is necessary to protect the victim, meaning longer than 2 years. Final protective orders can also be extended for an additional two years if the petitioner requests such an extension before the expiration of the order and a judge finds there is a need for extended protection. There is no limit on the number of extensions that can be granted.

WHAT CAN A PROTECTIVE ORDER DO TO PREVENT FURTHER VIOLENCE?

All orders can require:

- No contact from the abuser or respondent;
- No further acts of violence, force or threat;
- Ownership of a pet, if you are the owner; and
- Other conditions the court deems necessary to protect you and/or your family members.

Family Abuse Protective Orders can offer additional protection:

A Family Abuse Protective Order is a document issued by a court to help protect yourself, your children, your pets, and other family and household members from another family or household member who is hurting you or causing you fear.

Preliminary Family Abuse Protective Orders can state the above and:

- Require the abuser to maintain utility service, including cell phone service, for the household;
- Grant temporary possession to a jointly owned car;
- Grant temporary possession of the shared home;
- Grant temporary possession of a shared telephone;
- Require the abuser or respondent to provide suitable alternative housing; and
- Any other relief necessary to protect the victim and other family or household members.

“Final” Family Abuse Protective Orders can state all the above and:

- It can require the abuser or respondent to participate in treatment or counseling;
- It can grant temporary custody and visitation for the children; and
- It can grant temporary child support.

Think ahead about what you need to keep yourself and your family safe. You can ask to have those ideas included in the Protective Order.

To find a domestic and sexual violence advocate and get connected to resources in your area, call the Statewide Hotline. Free. Confidential. 24 hours a day. 7 days a week. 365 days a year.



MAKING DECISIONS ABOUT PROTECTIVE ORDERS

First you need to figure out if a protective order is the right option for you. You may want to get more information from a domestic and sexual violence advocate – (to find one in your area call 1-800-838-8238) or an attorney.

Find out:

- what a protective order can and can't do for you;
- what procedure to follow for getting an order in your area,
- where you will have to go to file the forms,
- what you might expect in court; and
- how you can develop a plan for your safety.

You will be asked to describe the recent acts of violence and/or threats, why you need the order, and to think about what you need for your protection and the protection of your children and/or other family and household members.

I NEED PROTECTION RIGHT AWAY... HOW DO I GET AN EMERGENCY PROTECTIVE ORDER?

If you feel you are in immediate danger, call 911. You can also go to a magistrate's office and request an Emergency Protective Order. **Remember, this order is only good for a short period of time.**

If the magistrate or law enforcement officer does not give you an emergency order, you can go to court to file a petition for a Preliminary Protective Order.

An Emergency Protective Order can order the abuser or respondent to stay away until you can get a preliminary or "Final" Protective Order but if you are in danger, make a plan for how to stay safe. **Do not rely on the order to protect you.** Get to a safe place where the abuser or respondent cannot find you. Remember, a protective order can send a strong message to the abuser or respondent that their behavior is wrong, but it does not take the place of you acting to protect yourself from danger.

You can contact a domestic and sexual violence advocate to assist you with figuring out a way for you to be safe. Each situation is different, and it is important to ask for help and to make a plan.

Call the Virginia Statewide Hotline at 1.800.838.8238 to make a safety plan and to get connected to a Domestic and Sexual Violence Program in your area.

For more information on how to ask for a Protective Order in your area, call the Virginia Statewide Hotline at 1.800.838.8238, text at 804.793.9999, or chat at www.vadata.org/chat

Where do I go to apply for a Family Abuse Protective Order?

To apply (petition) for a Family Abuse Protective Order (Juvenile and Domestic Relations Court) you must go to the intake office of the Juvenile and Domestic Relations Court either where you live or where the abuse/violence took place. There is no fee to petition for a protective order.

Where do I go to apply for a (Non-Family Abuse) Protective Order?

To apply (petition) for a Protective Order (General District Court), go to the Clerk's Office of the General District Court either where you live or where the violence took place.

The I-CAN! website can help you fill out the forms needed to request a protective order.

First, go to www.courts.state.va.us. On the left, click "Programs". Then, click "Domestic Violence Programs and Services". Then, click "Assistance with Protective Orders". Then, click "I-CAN! Virginia's Online Forms Completion System for Protective Orders".

I-CAN! will ask you questions about your situation, and it will add your answers to the correct court forms. You can then print those forms and take them to either the Juvenile and Domestic Relations Court or the General District Court to file them and request the protective order. It will take you around 30 minutes to fill out and print the forms. Filling out the forms online does not mean you have asked for a protective order. You must print and bring the forms to the correct court to file them. The online forms are not automatically sent to the court.

After you print out your completed form, look at the top of it and it will either say Juvenile and Domestic Relations District Court or General District Court. If it says Juvenile and Domestic Relations District Court, you should take the forms to the Court Services Unit of the specific court named on the forms. If the form says General District Court, you should take the forms to the Clerk's Office of the General District Court.

If you do not have access to a computer or would prefer talking to someone, call the Virginia Statewide Hotline at 1.800.838.8238 and you can find the closest Sexual and Domestic Violence Agency for help or you can ask for help from the Hotline Advocate. A trained advocate can talk you through the process and provide immediate help.

NOW THAT I HAVE A PROTECTIVE ORDER, WHAT DO I NEED TO KNOW?

All Protective Orders require enforcement.

Protective orders can only be enforced if the order has been served to the abuser or respondent. (This means that the abuser or respondent has received a copy of the order and knows that there is an order issued against them).

Once a protective order has been issued and served, it is entered into a law enforcement data base called VCIN (Virginia Criminal Information Network). Information about the order is available to law enforcement. Entry into the VCIN also prohibits the respondent from legally purchasing a firearm where a background check is required. Once the order is no longer in effect, it will be removed from VCIN.

It is the abuser or respondent's responsibility not to violate the terms of the protective order. A violation of certain terms in the order is a criminal offense. Any act of violence is a criminal violation. If the protective order states that the respondent may not contact you, then that violation is also a criminal offense. Call the police immediately to report a criminal violation of a protective order. Violations of other terms of the order are not criminal and must be enforced through a 'show cause' motion (going back to the court).

A criminal violation of a protective order may also be reported to the local magistrate, who may issue a criminal misdemeanor charge of a violation of the protective order.

If the police do not arrest the abuser or respondent for a criminal violation, you may go to the Magistrate's office to request a warrant because the Protective Order was violated. Take a copy of your order to the Magistrate's office with you.

MAKE SURE THE ORDER WORKS FOR YOU.

While you are not responsible for enforcing it, there are things you can do to help make it work better for you and to help the police enforce your Protective Order.

- **Keep a copy of the order with you** if at all possible; it helps if you can get several copies of it from the courts. Many Virginia courts also participate in a program called the **Hope Card Program**. Hope Cards are laminated cards, similar in size and shape to a credit card, that contain all the essential information about your protective order in a durable, easy-to-read format. The card is a convenient way to carry around the important information found on a protective order. It does NOT replace the existing protective order. Law enforcement still must verify the order in their system when presented with a Hope Card.
- **Let your friends and family, your employer, campus and school staff and anyone you feel like you can tell, know that you have a protective order.** Tell them to call 911 if they are aware that the abuser or respondent is near you.
- **If the abuser or respondent contacts you or assaults you, call 911 as soon as possible.** Let them know that you have a protective order. Police in Virginia are required to make an arrest if the respondent assaults you or contacts you (if there is a no-contact requirement in the protective order). Contact may include communication in person, by phone, (calls or texts), by mail or by e-mail. This includes messages sent through other people (such as mutual friends).

If the contact is in person, try to give a description of what the respondent was wearing, the type of car, license plate and the direction he/she left the scene.

If the contact is by phone, give the time of the call, where the call was made from if you know (number from caller ID), tell them what was said, and if possible, record the call. If the contact is in the form of a text message, do not respond but save the message and provide it to the police and courts.

If the contact is by mail or e-mail, save the mail or e-mail, do not respond but provide the content of the mail or e-mail to police and courts.

Remember: no one has the right to threaten or harm you. You deserve a life free from violence. There are many people who care about you and will try to help you.

Call, text, or chat the Virginia Statewide Hotline to speak with an advocate or visit www.vsdvalliance.org for more information on how to stay safe.

If getting a Protective Order seems overwhelming, break it down in steps, or talk to a domestic and sexual violence advocate or a trusted friend or family member to help sort things out.

The more information you can provide, the better.

If the order is a no contact order, it is best for you to not contact the abuser or respondent for any reason. If you feel that you need to contact the abuser or respondent while the order is in effect, it's best that you inform the court that you need to make contact with them and the reason for the contact.

If you decide you no longer need a protective order, or you want to change something about your order, you must go back to court. Only a Judge can change the protective order. Contact the Clerk of the Court that issued the order and ask for a "modification to the order". Sometimes it helps to talk things over with a domestic and sexual violence advocate before making your final decision. However, the decision is yours to make and you are the one who knows best how to protect yourself.

A "Final" Protective Order is subject to something called Full Faith and Credit. This means that your order is to be enforced everywhere in the U.S.A. This means that if you live in one county or city and work in another one, the order is good even if you are in another state. If you move, it helps if you register your order with the courts in your new location. It's not required by law but it may help with enforcement in your new location. If your order is violated and law enforcement tells you that they cannot enforce it because it's from another state, contact the Commonwealths Attorney's Office and ask for assistance.

In Virginia, if an Emergency or Preliminary Protective Order is issued, the abuser or respondent may not purchase or transport firearms, but they may keep the firearms they already own. **If a "final" protective order is issued, the abuser or respondent will be required to give their firearms up within 24 hours of being given the order.** The respondent must also give up any concealed weapons permits to the court who issued the protective order for however long the order lasts.

Before seeking a protective order, think about how the abuser or respondent will react to having to give up their firearms. Will it upset them even more? Will it put your safety at risk? Consider talking this over with a domestic and sexual violence advocate and creating a safety plan before getting a protective order. The decision, however, is yours to make, and you know best how to protect yourself.

Protective orders and guns are a dangerous combination. If you are aware of an abuser or respondent violating the law by keeping their firearms, contact law-enforcement immediately. Go to a safe place such as a domestic violence shelter. Take the threat seriously and seek help!

PROTECTIVE ORDERS FOR TEEN DATING VIOLENCE

If you are under the age of 18 and experiencing acts of violence, force or threat from a dating partner or someone else you know, you and your parents/guardian may request a protective order to help keep you safe. In Virginia, there are limits to what you can do without involving your parents or guardian unless you are an 'emancipated minor' (see below).

You may request an Emergency Protective Order without a parent or legal guardian. A law enforcement officer may also request an emergency protective order on your behalf without a parent or legal guardian. These requests are made through the local magistrate's office. However, an emergency protective order only lasts for 72 hours and it is important to have a safety plan in place before you request a protective order.

You may only seek a Preliminary or "Final" Protective Order if you meet the legal definition of an 'emancipated minor' (see below) or if a 'next friend' (most likely a parent or guardian) petitions on your behalf. If you or the respondent are under the age of 18, your request should start with the Juvenile and Domestic Relations Court.

Since a protective order is just one tool to help you stay safe, it is important that you have caring adults in your life who know about the protective order and can help you develop a safety plan.

If you need guidance or help creating a safety plan or telling an adult, please call, text, or chat the Virginia Statewide Hotline. Free. Confidential. 24 hours a day. 7 days a week. 365 days a year. Call us at 1.800.838.8238; Text us at 804.793.9999; or chat us at www.vadata.org/chat

WHAT IS AN "EMANCIPATED MINOR"?

Under Virginia law, an 'emancipated minor' is an individual under the age of 18 who a court has determined:

- is or has been a party to a valid marriage;
- is on active duty with any of the armed forces of the United States of America; or
- is willingly living separate and apart from his/her parents or guardian, with the consent of the parents or guardian, and is capable of supporting himself/herself and managing his own financial affairs.

SUPPORT FOR LGBTQ+ VIRGINIANS

Under Virginia law, you are eligible to seek a Family Abuse Protective Order through the Juvenile and Domestic Relations (J&DR) Court if the person who is harming or threatening you is a family or household member. **This definition includes LGBTQ+ individuals who are living with a partner or who have lived with a partner in the last 12 months.**

In order to meet the legal definition of 'family or household member', you may be asked to prove that you are cohabiting with your partner which may require disclosure of intimate and private information in court.

If you experience difficulty obtaining a protective order through the Juvenile and Domestic Relations Court or if you are in a relationship that does not meet the definition of 'family or household member', you may seek a Protective Order through the General District Court. Protective Orders may be issued in response to any act of violence or threat when there is continued concern for the safety of the victim by a known perpetrator—including acts of sexual or physical violence or threats that might be considered hate crimes. Obtaining this protection does not require proof of a relationship—only proof that an act of violence or a threat has occurred and is likely to occur again.

Despite the inclusiveness of Virginia's law and the options available to LGBTQ+ individuals, you may have valid safety concerns about sharing private information and details about your relationship in order to access protection and services. **Everyone has the right to a safe, respectful, and healthy relationship.**



L G B T Q
partner abuse
& sexual assault
HELPLINE
1.866.356.6998
Monday-Friday 8am-8pm

If you are unsure of where to go for help, call, text, or chat the LGBTQ+ Partner Abuse and Sexual Assault Helpline. This is a space for survivors and people impacted by violence, like friends, family, professionals, and the general public, to connect with trained advocates about safety for LGBTQ+ Virginians experiencing violence.

Free. Confidential. 24 hours a day.
7 days a week. 365 days a year.
Chat: www.vadata.org/chat
Text: 804.793.9999
LGBTQ Helpline: 1.866.356.6998

LEGAL WORDS YOU MIGHT NEED TO KNOW

(Civil) Protective Order

Legal document to protect against an abuser. It can require the abuser to stay away from the person being abused.

Cohabitation

Living together as spouses but not married.

Contempt of Court

Failure to obey a judge's order.

Defendant

The person against whom a charge is brought. The abuser is the defendant in a protective order hearing. A defendant is the same as the respondent.

Evidence

Anything shown in court to support a case. It can include testimony by you or a witness, documents, photographs, items of clothing, weapons, and police or medical records.

Ex Parte

Latin word that means "from one side". A preliminary protective order issued by a judge who hears only from the victim is an ex parte order.

Full Faith and Credit

The responsibility of the court of one state to enforce the valid order of another state. In order to be enforced the order must have been issued by a court, after the respondent was notified of a hearing and was given the opportunity to be present and be heard.

LEGAL WORDS YOU MIGHT NEED TO KNOW

General District Court

A court where all misdemeanor cases not involving juveniles and family members are tried, including traffic cases. This court also conducts preliminary hearings in felony cases.

Hearing

A meeting held at the courthouse where the judge listens to evidence from both sides and makes a legally binding decision.

Juvenile & Domestic Relations Court

A court where all cases (including preliminary hearings) involving minors and family and household members are tried.

Petitioner

The person who begins the case or asks for a case to be heard in the court by filing a petition. Same as applicant, plaintiff or complainant.

Pro se

Acting as one's own lawyer. In Latin it means "for oneself".

Respondent

Same as defendant. The person who must respond to the charges by the petitioner or complainant.

Service

Delivering court documents to one of the parties. The abuser must be "served" with the document telling him/ her why he/she must come to court and when he/she must appear.

RESOURCES IN YOUR COMMUNITY:

County/city name:

Domestic and Sexual Violence Agency:

Location:

Phone or 24 hour hotline:

Juvenile & Domestic Relations Court Services

Location:

Phone:

General District Court

Location:

Phone:

Legal Aid

Location:

Phone:

Magistrate's Office

Location:

Phone:

To order more copies of this
booklet, contact:

Virginia Sexual & Domestic
Violence Action Alliance
phone: 804.377.0335
e-mail: info@vsdvalliance.org
web: www.vsdvalliance.org

