

# *The Idaho State Court System: Domestic Violence*



Please copy this brochure if the information will be helpful to you or others in the future!

Revised January 2013

This brochure will explain how the court system helps to protect victims of domestic violence. It will describe what a civil protection order is, how to petition for a protection order and what other resources are available to help victims of domestic violence through the court process.

## What is a Civil Protection Order?

In Idaho, "domestic violence" means physical injury, sexual abuse, forced imprisonment, or threats of physical injury, sexual abuse, or forced imprisonment. A victim of domestic violence or dating violence can ask the court for a [Civil Protection Order \(CPO\)](#). The CPO will prohibit an abuser from contacting the victim. The person filing for the protection order must be (or have been) in a domestic relationship with the abuser (a parent may file on behalf of a minor child). The person filing and the alleged abuser are or have been in a domestic relationship if they: are spouses or former spouses; currently living together or have lived together in the past; have one or more children in common; are dating or have previously dated; or are related by blood or adoption.

There is **no charge** to file or serve a petition for a protection order. If the protection order is granted, it will order the abuser to stay away from your home, work and other places you may frequently go for a specified period of time. It may order the abuser to stay away from your children if there is potential harm to them.

In contrast a [Criminal No-Contact Order \(NCO\)](#) is often put in place when a person is arrested and charged with domestic violence, stalking, or violation of an existing protection order. The NCO usually requires that the person (defendant) not contact another person at all. NCOs are effective until ended by the court. The court will end the NCO when the case is dismissed; but, when a defendant is convicted or pleads guilty to a criminal charge, the judge can extend the NCO for a year or longer. If a defendant is sentenced to probation, it is possible for the NCO to stay in place until the end of the probation. Unlike a CPO, an individual cannot petition the courts for a NCO. An individual may ask that the NCO be changed or ended by filing a written request with the clerk of the court in which the NCO was issued. Once a request is filed, a hearing will be held within 14 days. Even if there is a NCO, you can file a petition in the civil court system for a CPO.

## Filing for a Civil Protection Order (CPO)

If you have decided that you need to file for a CPO, you must go to the clerk's office at the courthouse in the county in which you live, where you are temporarily staying, or where your abuser is currently residing. You can find the CPO forms for filing with the court by going to [www.courtselfhelp.idaho.gov/domestic-violence](http://www.courtselfhelp.idaho.gov/domestic-violence) or you can go to the courthouse.

The clerk will give you a form called the [sworn petition for protection order](#). In the petition, you will be referred to as the petitioner and the party you are filing against is called the respondent. Fill out the form very carefully. It is important that you are specific about your situation and the abuse that is occurring. If there are firearms involved, write this down and explain this on the petition. Write down details of what happened, any injuries and use exact quotes. The judge must have all of the information to make an informed decision.

Many counties have an ["advocate"](#) available to assist persons asking for a CPO. An advocate is a person who works for a domestic violence program and will assist you through the process free of cost. Though the advocate is not an attorney and cannot provide legal advice, he or she can be a very important resource for you. The advocate can assist you in filling out your petition, guide you in preparation for the hearings, and provide needed emotional support throughout the process. Ask the domestic violence program serving your county how an advocate may be able to help you.

Once you file your petition, the clerk will either set a time for you to appear before a judge or a judge may review your petition without a hearing. If a hearing is scheduled this is called an [ex parte hearing](#), which means that you are appearing before the judge before the respondent has been served, and without the respondent present. The ex parte hearing will be set within one business day of you filing the completed petition, or if a hearing is not set, the decision to grant or deny your petition will be made within one business day. If you are in immediate danger, the clerk will try to set the hearing for the same day you file the petition.

At an ex parte hearing, a judge will review your petition and may ask you to tell more about your situation. Be calm, clear, and answer the questions truthfully. If the judge finds that you need protection, a [temporary CPO](#) and notice of hearing will be issued. The temporary CPO will be good for up to 14 days or until the full hearing for the CPO takes place (see below), whichever is sooner.

If the respondent is in [Idaho](#), the clerk will immediately forward a copy of the temporary CPO to the local sheriff's office. The sheriff's office will attempt to serve the temporary CPO on the respondent within 24 hours depending upon the accuracy of the information you provide about the respondent.

If the respondent lives [out of state](#), you must obtain a certified copy of the temporary CPO after the hearing and arrange for service at your own expense – most states serve domestic violence protection orders at no cost to you. You can contact the local sheriff's office in the state in which the respondent lives to see if they provide this service or use the services of a professional process server. Once the temporary CPO is served, the respondent must comply with its provisions.

## The Full Hearing

At the [full hearing](#) for the CPO, both you and the respondent will have the opportunity to present your side of the story and evidence supporting that story to the judge. You may wish to seek legal representation to ensure your legal rights are protected. If you do not have an attorney and the other party is represented by an attorney at the hearing, you can ask the judge for a continuance or "rescheduling of the hearing" to allow you to seek the advice of an attorney. If you would like to be [represented by an attorney](#) but are unable to afford one, there are a number of organizations that may assist you. Idaho Legal Aid Services, Idaho Volunteer Lawyers Program, and the University of Idaho College of Law Victims' Rights Clinic all provide free legal assistance to low-income individuals who have experienced domestic violence. The [Idaho State Bar](#) can refer you to an attorney.

The full hearing is a more formal hearing. These hearings may be very stressful, it is highly recommended that you not bring your children. It is important to be on time, dress neatly and be ready to present your information clearly and calmly to the judge. This is an emotional subject and it may help to write down the information you wish to present. You may also wish to bring any person that has witnessed the abuse and can tell the judge about what they have seen. Evidence such as copies of police reports, photographs, hospital reports, and recorded messages may be useful to the judge at this hearing.

If the respondent does not appear at the hearing, the CPO may be granted by ["default"](#). If the respondent does appear for the hearing and contests the CPO, then you must be prepared to present your evidence to the court. Any changes that need to be made to the temporary CPO can be done at this time. If you do not appear at the hearing, the CPO request will be cancelled and you will have to start the process again.

Because the hearing for the CPO is taking place in civil court, the judge who presides over your petition for a CPO will not be able to hear any related pending criminal case at that time. Also, any divorce, division of property, or child custody issues will ultimately be settled in a separate civil case. Though the CPO may set temporary arrangements for use of property or child custody, the judge that handles the divorce or custody case will make the final decisions in this area.

After hearing all of the evidence, the judge will decide if, by law, your situation requires a [long-term CPO](#). If a CPO is granted, it will be in effect for the period of time stated in the order; possibly up to a year. The CPO must be followed by both parties. The respondent cannot have contact with you unless specific exceptions are made in the CPO such as allowing communication through a third party, by telephone, email or by mail. Even if both parties are in agreement to [modify the CPO](#), any modification to the CPO must first be approved by the court and an amended written court order issued.

The CPO may also decide on a temporary basis who will reside in a house you share with the respondent, who will have custody of the minor children you both have in common and how the visitation of the children will be structured. Both parties must follow these provisions. You want to make sure that the exchange of the children is safe for you and the children and does not result in a violation of the order. It is important to understand that even though CPOs are issued through the civil court system, a violation of a CPO is [a crime](#) and may result in a criminal charge being filed.

## Steps to Safety

Once a temporary or long-term protection order has been issued, [keep a copy with you at all times](#). Also consider leaving a copy of the order at protected locations named in the order (your place of work, school, children's day care, school, or etc.) and any other place you frequently visit. The [Idaho Hope Card Program](#) allows anyone with a valid, long-term (12 months or more) CPO to request a laminated card, similar in size and shape to a credit card. The Hope Card contains essential information about a valid CPO in a durable, easy-to-read format. Hope Cards are free. To obtain a Hope Card please contact the Idaho Hope Card Administrator at (208) 334-2400 or go on-line to [www.ag.idaho.gov](http://www.ag.idaho.gov).

If the CPO is [violated](#), call the police immediately and have a copy of the CPO available for the responding law enforcement officer to review. Document all violations to assist in the filing of criminal charges.

If either you or the respondent live in or plan to visit another state, request a certified copy of the CPO and deliver it to the sheriff or local police department in that state. You may also want to inform friends and neighbors so that they too can be looking out for your safety.

Consider working with your [local domestic violence program](#) to create an individualized safety plan. A safety plan helps you prepare to stay safe during a future domestic violence incident. It is important to have a safety plan even if you do not think there will be a "next time". Your safety plan should include escape routes from your residence, safe places to go, and phone numbers to have on hand. Ways to enhance your personal safety include: driving a different route to work, shopping in different stores than you normally would, and avoiding places that you may have gone with the respondent.

The protection order may be [renewed](#) if there is still a threat to your safety at the end date of the order. If you wish to have the order renewed, file your request or "motion" with the court clerk at least a week or two before the end date written on the first page of the protection order. The judge will decide if there is good cause for renewal, as required by law. The judge may do this without an additional hearing if the respondent does not object to the renewal.

Though this information may seem overwhelming, there are a number of resources available to you. The statewide domestic violence hotline can provide emotional support as well as important information on the process of protecting yourself. This number is (800) 669-3176. Additionally, there are domestic violence programs serving every county of the state that can provide support, advocacy, temporary shelter, and other services. To find the domestic violence program and other support services serving your area log on to [www.engagingvoices.org](http://www.engagingvoices.org) and click on the "Need Help?" link on the bottom left. There may also be court resources in your area, like a Domestic Violence Court Coordinator, Family Court Services Coordinator, or Court Assistance Officer, that can answer questions about the court process.

**WARNING: These instructions are not a substitute for legal advice. The laws and court rules are complex and following these instructions will not guarantee you a favorable result. It is always advisable to talk to a lawyer about your situation before filing your action. If you need a lawyer, contact the Court Assistance Office for their [Legal Services Directory](#) or roster of local attorneys, or call the Idaho State Bar Lawyer Referral Service at (208) 334-4500.**



## *Court Resources*

### **On-line Civil Protection Order Petition**

The Court has a program to walk you through the completion of a petition for protection order on the website [www.courtselfhelp.idaho.gov/domestic-violence](http://www.courtselfhelp.idaho.gov/domestic-violence)

### **Court Assistance Offices**

Court Assistance Offices serve as a one stop clearinghouse to access legal services and other resources for litigants involved in civil matters.

Court Assistance Offices are located in selected court houses throughout the state. Please call the Clerk in your county to learn about the Court Assistance Office nearest to you or access the statewide website at [www.courtselfhelp.idaho.gov](http://www.courtselfhelp.idaho.gov)

### **Clerk of the District Court**

The phone numbers and addresses of the Clerks in each county are published on the Supreme Court web page [www.isc.idaho.gov](http://www.isc.idaho.gov)

You can also find this information in your local phone book.

### **Idaho State Law Library**

Phone: (208) 334-3316 [www.isll.idaho.gov](http://www.isll.idaho.gov)

### **Idaho Domestic Violence Courts**

Domestic Violence Courts are located in various counties throughout the state. [www.isc.idaho.gov/domestic-violence/dvc-home](http://www.isc.idaho.gov/domestic-violence/dvc-home)

Please call your local Domestic Violence Court Coordinator for additional information about civil protection orders, criminal no-contact orders or the court process.

[www.isc.idaho.gov/problem-solving/domestic-violence-court-coordinator](http://www.isc.idaho.gov/problem-solving/domestic-violence-court-coordinator)

### **Family Court Services**

Family Court Services offers several services to parents involved in family law matters. Contact your local office for additional details. [www.isc.idaho.gov/family-court/fc-home](http://www.isc.idaho.gov/family-court/fc-home)

## *Other Resources*

### **Idaho Domestic Violence 24 Hour Hotline**

(800) 669-3176

### **National Domestic Violence 24 Hour Hotline**

(800) 799-7233

### **Idaho Legal Aid Domestic Violence Hotline**

(877) 500-2980

### **Idaho Coalition Against Sexual & Domestic Violence**

300 E. Mallard Dr., Ste. 130; Boise, ID 83706

Phone: (208) 384-0419

Toll Free: (888) 293-6118

[www.engagingvoices.org](http://www.engagingvoices.org)

### **Idaho Council on Domestic Violence & Victim Assistance**

P.O. Box 83720; Boise, ID 83720

Phone: (208) 334-6512

[www.state.id.us/crimevictim](http://www.state.id.us/crimevictim)

### **Idaho Hope Card Program**

Office of the Attorney General

PO Box 83720; Boise, ID 83720

Phone: (208) 334-4547 Toll Free: (888) 334-4547

[www.ag.idaho.gov/victimAssistance/hopeCard/hopeCard\\_index.html](http://www.ag.idaho.gov/victimAssistance/hopeCard/hopeCard_index.html)

### **Idaho State Bar**

Lawyer Referral Service

P.O. Box 895; Boise, ID 83701

Phone: (208) 334-4500

[isb.idaho.gov](http://isb.idaho.gov)

### **Idaho Volunteer Lawyers Program**

P.O. Box 895; Boise, ID 83701

Phone: (800) 221-3295

[isb.idaho.gov/ilf/ivlp/ivlp.html](http://isb.idaho.gov/ilf/ivlp/ivlp.html)

### **University of Idaho – Legal Clinic**

Moscow, ID 83844 Phone: (208) 885-4628

[www.uidaho.edu/law/academics/clinicsprofessionalskills/clinics](http://www.uidaho.edu/law/academics/clinicsprofessionalskills/clinics)