

Stop family violence With an Order of Protection

Information for Macon and Smith Counties

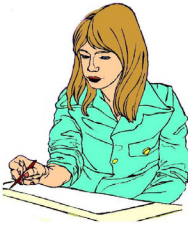
What Is An Order of Protection?

It is a paper signed by a Judge. It protects you from certain people who have hit you or threatened you. You can get an Order of Protection without a lawyer.

Who does an Order of Protection protect me from?

Has one of the people listed below hit or threatened you? **Or** have they destroyed any of your belongings? Then you can file for an Order of Protection from:

- Your past or present spouse
- Your child's other parent
- Someone you live with or have lived with
- Someone kin to you by blood or marriage
- Someone you have dated
- Someone who stalked you
- Someone who raped or threatened to rape you.



How does an Order of Protection help?

1. Has someone hit or threatened you? It orders the person not to bother you or your children again. What if they bother you after they know about the Order? You can have them arrested on the spot.
2. It can order the person not to contact you or bother you.
3. It can make the person move out. **OR** make them pay for other housing for you and your children.
4. Does the other person still live with you? It can order the person not to hurt or threaten you.
5. It can give you temporary custody of the children.
6. It can order the person to pay support money for you and/or the children.

You are **not safe** just because you have an Order of Protection. After you file for the Order, you may still need a safe place to stay. Call Genesis House 24 hours a day for information or a place to stay. Their free number is **1-800-707-5197**. Use common sense to stay away from danger.

How do I file for an Order of Protection?

Legal Aid or Genesis House will help you fill out Order of Protection forms. You then file these forms at the Courthouse. You can also go directly to the Courthouse. They will help you fill out and file the forms.

In **Macon County**, you file for an Order of Protection at the Clerks' offices in the Macon County Justice Center. It is at 906 Hwy 52 Bypass East in Lafayette. In **Smith County**, you file at the General Sessions Clerk's office. It is on the first floor of the Smith County Courthouse in Carthage. The form you fill out is called a petition. It asks the Judge to give you an Order of Protection.



Do not stretch the truth or make things up in your petition. That will hurt your case. It could also lead to criminal charges against you.

You don't have to pay any money when you file for an Order of Protection. After the hearing, the Judge decides who must pay the court costs and fees. If you get an Order of Protection, the other person must pay the costs. What if you drop the charges or don't get an Order of Protection? Then you will have to pay the court costs and fees.

What happens after I file?

1. The Judge signs an Ex Parte Order

The Judge reads your petition to decide if you need an Order of Protection at once. If so, the Judge signs one right away.

This first order is called an “ex parte” order. It is a temporary order until the Judge holds a Hearing. It orders the other person to leave you alone. Once the other person knows about the order, you can have them arrested on the spot if they hit or threaten you or your children again. The ex parte order does not cover child support, custody or whether the other person must move out of the house. That can only be done after a Hearing.

2. The Clerk gives you the Order

The Clerk gives you copies of the papers. If the Judge signs the ex parte order, the Clerk will give you a copy. Save your copy. You may need to show it to the police, your boss or the landlord.

The Clerk will tell you when to come back for a hearing before the Judge. Write down the date, time and place so you won't miss it.

3. The Sheriff tells the other person about the Order

After the Judge signs the Order, the Sheriff will try to find the other person. When they do, they will read the petition and the Order to the other person. They will tell him or her when the hearing will be.



4. The Court holds a Hearing on the Order of Protection

It's important to go to the Hearing. If you don't go, the Judge will dismiss your case. You will have to pay the court costs and fees.

The Judge understands that you may be scared about the Hearing. You can talk for yourself at the hearing or you can have a lawyer to talk for you. If the other person has a lawyer, you can ask the judge for time to get a lawyer on your side.

How Should I Get Ready for the Hearing?

Have you been hurt or threatened? Or has the other person destroyed any of your personal belongings? To get an Order of Protection, you must show this to the Judge. Before the Hearing, think about questions you might be asked. Be ready to give short, simple, truthful answers. Wear your good clothes to court. Do not wear shorts or blue jeans.



Bring to court any proof you have that the other person hit or threatened you. You **can't** use a doctor's report or a police report to prove what happened. Proof can be pictures of your injuries or personal belongings that were destroyed. Bring any witnesses who saw it happen or saw your injuries or heard the other person admit it.

The Hearing

The Judge will ask you what happened. Stick to the facts. Tell the Judge when and where you were hurt or threatened and exactly what the other person did. Do not talk about trouble with the other person's friends or family. Has the other person hurt you before? did you have to see a doctor or leave home? Be sure to tell the Judge. Have you taken out a criminal warrant for assault, battery, domestic violence or other charges? Tell the Judge.

The Judge will let the other person tell his or her side and ask you questions. Don't let this upset you. The Judge may also let you ask questions.

What can the Judge do at the Hearing?

1. The Judge can **stop** the Order of Protection. This happens if you don't show you were hurt or threatened.
2. The Judge can make the Order of Protection **last longer**, up to a year.
3. The Judge can order the other person not to contact, bother or follow you.
4. The Judge can make the other person **move** out. OR make them pay for another place for you to live.

5. The Judge can give you **temporary custody** of the children. The Judge can set rules for visits with the other person. Is it dangerous to leave the children alone with this person? The Judge can order another adult to be at the visits.
6. Is the other person the parent of your child? The Judge can order them to pay **child support**.
7. The Judge can order the other person to pay your lawyer. Are you married? If you need it, the judge can make the other person pay support for you. Your spouse must be able to pay.
8. The Judge can order the other person to go for counseling.



5. You get the Final Order

The Clerk will mail or hand you a copy of the Judge's Final Order. Be sure to save it.

Other rights when you call the Police

Even without an Order of Protection, you have certain rights. If you have been hurt, call the police at once. They can arrest the other person right then even if they did not see it happen. But they must have "probable cause". This means they believe the other person hurt you and may do it again. They decide this based on what you and other witnesses tell them. They can also remove weapons from the home.

Have you been hurt by someone you have lived with or have a child with? When the police come, they should always:

1. Offer to take you to get an arrest warrant. They should also offer to help you try to get one.
2. Offer to take you to a shelter or somewhere else safe. This could be the home of a friend or relative.
3. Tell you about your legal rights and about services that might help you.



LEGAL AID SOCIETY

OF MIDDLE TENNESSEE AND THE CUMBERLANDS

650 North Water Avenue

Gallatin, TN 37066

(615) 451-1880

1-888-475-4150

It's a free call.

On the internet at: www.las.org

This pamphlet is not meant to take the place of legal advice. Each case is different and needs individual attention. 7/05