

What You Need To Know About An Order of Protection

in Cheatham, Dickson, Houston, Humphreys,
Montgomery, Robertson and Stewart counties

What Is An Order of Protection?

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

Who can you get an Order of Protection against?

You can file for an Order of Protection if one of these people has hit or threatened you:

- Your past or present husband or wife
- Your child's other parent
- Someone you live with or have lived with
- Someone kin to you by blood or marriage.



How does an Order of Protection help?

1. It orders the other person not to bother you. You can have them arrested on the spot if they bother you after they know about the Order.
2. In some cases, it can make the other person move out or pay for another place for you and your children to live.
3. It can let the other person live with you but order them not to hurt or threaten you.
4. It can give you temporary custody of the children.
5. It can order the other person to pay support money for you and/or the children.

Important! An Order of Protection does **not protect your children**. If they are in danger, you can file in Juvenile Court for an order to protect them. You can also call the Tennessee Department of Human Services.

Also, **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. You can call the shelter in your area 24 hours a day for information or a place to stay. In Montgomery, Stewart, Houston or Cheatham County, call Safehouse at 648-9100. In Robertson County, call Homesafe at 382-0829. In Dickson or Humphreys County, call Women Are Safe at 931-729-5730. Or call them at 1-800-470-1117 for free.

How do I file for an Order of Protection?

You always have the right to try to get an Order of Protection. You do not have to file within a certain number of days after the other person hits or threatens you. But it's a good idea to file as soon as possible. You'll need the address of the other person.

Go to the Chancery or General Sessions Court Clerk's office at your Courthouse. Tell them you want an Order of Protection. They will help you fill out a paper 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 and could lead to criminal charges against you.



It costs about \$100 to file for an Order of Protection. **If you can't afford this**, ask to fill out a paper called a Pauper's Oath. The form asks about your income. If your income is low enough, you will not have to pay the fee before you file the petition. Either way, the Judge decides later who

must pay the fee. If the Judge gives you an Order of Protection after a hearing, the other person will have to pay the fee. But you will have to pay it if you drop the charges or if the Judge does not give you the Order of Protection.

Before you leave, the Clerk's office will tell you when to come back for a hearing before the Judge within 10 days. Be sure to write down the date and place.

What happens after I file?

1. The Judge signs an Ex Parte Order

The Judge reads your petition. If the Judge decides you need an Order of Protection, the Judge will sign 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 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 Sheriff tells the other person about the Order

After the Judge signs the Order, the Sheriff's Office will try to find the other person. When they do, they will read the Order to him or her.



3. Getting the Order

The Clerk will tell you whether the Judge signed your Order. If the Judge signed it, the Clerk's office will give you a signed copy. Save your Order to show to the police, your boss or the landlord if you

need to.

4. You go to a Court Hearing on the Order of Protection

It's important to go to the hearing. If you don't, the Judge will dismiss your case and you will have to pay the court costs. The Judges understand that you may be scared about the hearing. You do not have to have a lawyer for the hearing, even if the other person has one. You may want a lawyer, though, if the other person has one. You can ask the Judge to give you time to get a lawyer.



To get an on-going Order of Protection, you must show the Judge that you are in danger. Before the hearing, think about questions you might be asked. Be ready to give short, simple, truthful answers. Wear your good clothes to court. Don't wear shorts or blue jeans.

Bring to court any proof you have that the other person hit or threatened you. You can use a doctor's report, a police report or pictures of your injuries. You should bring as witnesses anyone who saw it happen or saw your injuries or heard the other person admit it. People you told about it cannot usually help you at the hearing.

At the Hearing

The Judge will ask you what happened. Stick to the facts about when you were hit or threatened. The Judge will need to know when and where you were hit or threatened and exactly what the other person did.

Don't talk about trouble with the other person's friends or family. Be sure to tell the Judge if the other person has hurt you before and if you had to see a doctor or leave home. Also tell the Judge if you have taken out a warrant for assault and battery

or other criminal charges.

The Judge will let the other person ask you questions. Don't let this upset you. The Judge may also let you ask questions.

What can the Judge decide at the hearing?

1. The Judge can **stop** the Order of Protection if the Judge thinks you have not shown you were in danger.
2. The Judge can make the Order of Protection **last longer**, up to a year.
3. The Judge can make the other person **move** out of the house or pay for another place for you to live.
4. The Judge can give you **temporary custody** of the children. The Judge can also set rules for visits with the other person. The Judge can require another adult to be at the visits if it would be dangerous to leave the children alone with this person.
5. The Judge can order the other person to pay **child support** if he or she is the parent of your child. The Judge can order the other person to support you if you are married.

Save your copy of the Order to show to the police if you need to.

Other rights when you call the Police

Whether or not you have an Order of Protection, you have certain rights. If you have been hurt, call the police right then. They can immediately arrest the other person even if they did not see it happen, as long as they have "probable cause" to believe the other person hurt you and may do it again. They decide this based on what you and other witnesses tell them. Also, when the police come because you have been hurt by someone you have lived with or have a child with, they should



always do these things:

1. Offer to take you to get an arrest warrant and to help you try to get one.
2. Offer to take you to a shelter or somewhere else safe like the home of a friend or relative.
3. If you don't want a ride, they should tell you about your legal rights and services that might help you.

LEGAL AID SOCIETY OF MIDDLE TENNESSEE AND THE CUMBERLANDS

111 South Second Street
Clarksville, TN 37040
(615) 552-6656 (Montgomery County)
1-800-342-3317 (Cheatham, Dickson,
Houston, Humphreys, Robertson and
Stewart Counties)

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

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Tennessee Legal Aid/ Legal Services Offices

Legal Aid Society

of Middle Tennessee and the Cumberland

1-800-238-1443

Offices in Clarksville, Columbia, Cookeville,
Gallatin, Murfreesboro, Nashville, Oak
Ridge, and Tullahoma

West Tennessee Legal Services

Jackson Office 1-800-372-8346

Dyersburg Office (731) 285-8181

Huntingdon Office (731) 986-8975

Selmer Office (731) 645-7961

Memphis Area Legal Services

Memphis Office 1-888-207-6386

Covington Office (901) 476-1808

Legal Aid of East Tennessee

Knoxville Office (865) 637-0484

Johnson City Office 1-800-321-5561

Kingsport Office 1-800-821-1309

Chattanooga Office 1-800-572-7457

Cleveland Office 1-800-445-3219