

Quick Reference to Victim Protection Orders

The Domestic Abuse Prevention Act has specific requirements on who can apply for a victim protection order. To qualify, victims must fall under one of the following three categories:

1. Be a victim of domestic abuse, stalking, harassment, or rape AND the defendant be an intimate partner and/or family or household member. Any adult or emancipated minor household member may apply for a VPO on behalf of any other family or household member who is a minor or incompetent. (Example: a victim may include their minor children)
2. A victim of rape, forcible sodomy, a sex offense, kidnapping, assault and battery with a deadly weapon or member of the immediate family of a victim of first-degree murder may petition for an emergency temporary order or emergency ex parte order regardless of any relationship or scenario.
3. Be a victim of stalking

The Defendant's Relationship to Petitioner(s): For a victim seeking relief under the first category the defendant must be an intimate partner or family/household member.

Intimate Partner:

- Current spouse
- Former spouse
- Defendant and Petitioner are dating, or have dated, each other
- Defendant and Petitioner are, or have been, engaged in a sexual relationship
- Defendant and Petitioner are the biological parents of the same child
- Defendant and Petitioner currently live together, or previously lived together in an intimate relationship
- Defendant is a family or household member of the minor child(ren)

Family or Household Member:

- Defendant is one of the following:
 - parent, grandparent, stepparent, adoptive parent, or foster parent
 - child, grandchild, stepchild, adopted child, or foster child
- Defendant is otherwise related to victim (by marriage or blood) and lives in the same household
- Defendant is a family or household member of the minor child(ren) listed in petition

Stalking

Victims of stalking may apply for a VPO regardless of the relationship or scenario. A victim of stalking must file a complaint against the defendant with the proper law enforcement agency prior to filing a petition. The defendant's actions must be willful, malicious, and repeated following or harassment causing a reasonable person to feel frightened, intimidated, threatened, harassed, or molested AND actually causes the person being followed or harassed to feel terrorized, frightened, intimidated, threatened, harassed or molested. Stalking is a series of two or more separated acts over a period of time, however short, evidencing a continuity of purpose or unconsented contact with a person that is initiated or continued without the consent of the individual or in disregard of the expressed desire of the individual that the contact be avoided or discontinued.

Jurisdiction

A person seeking relief may file a petition for a protective order in the county the victim resides, defendant resides, or in which the domestic violence occurred.

Steps for Requesting an Ex Parte Emergency Temporary Order After Hours

A peace officer may contact a judge by telephone to request an emergency ex parte order after hours.

1. Provide the victim or member of the immediate family of a victim of first-degree murder with a copy of the petition.
2. If necessary, assist the victim in completing the petition form.
3. Immediately notify a judge of the district court of the request and circumstances.
4. A judge may issue an order verbally or in writing when there is reasonable cause to believe that the order is necessary to protect the victim.
5. When order is issued verbally, the judge shall direct the officer to complete and sign a statement attesting to the order.
6. The officer shall give the victim a copy of the order.
7. Notify the person subject to the emergency temporary protection order of the issuance and conditions of the order. A copy of the petition and the statement of the officer attesting to the order of the judge shall be made available to the person. Notification may be made personally by the officer upon arrest or upon identification of the assailant. Notice shall be given by any law enforcement officer.

The emergency temporary ex parte order shall be in effect until the court date that was assigned by the court during the approval of the order. Emergency temporary ex parte orders shall be heard within fourteen (14) days after issuance. The court shall provide a list of available court dates for hearings.