



COURT OF COMMON PLEAS, MONTGOMERY COUNTY
DOMESTIC RELATIONS DIVISION

DENISE L. CROSS, ADMINISTRATIVE JUDGE

TIMOTHY D. WOOD, JUDGE

Self-Represented Litigants – a person who chooses to file and represent themselves without an attorney may find this process complicated. We recommend you consider using an attorney to assist you with your case. **EMPLOYEES CANNOT GIVE YOU LEGAL ADVICE OR TELL YOU WHAT YOU SHOULD DO ON YOUR CASE.**

FILING FOR A DOMESTIC VIOLENCE OR DATING VIOLENCE
CIVIL PROTECTION ORDER

YOU WILL NEED: Picture ID, Name / Address for the Other Party, and about 2 hours

THERE ARE NO FEES TO FILE FOR A PROTECTION ORDER.

COMPLETED PACKETS CAN BE FILED BETWEEN 8:30AM AND 4PM, Monday – Friday, excluding holidays. PLEASE COME TO THE COURT EARLY OR YOU MAY NOT BE ABLE TO FILE IN TIME AND HAVE YOUR HEARING. **Hearings will not be held over the lunch hour (Noon – 1:15pm).**

PROCESS:

- Complete this packet of forms (DO NOT SIGN FORMS UNTIL YOU ARE IN FRONT OF A NOTARY)
- Return completed forms to the Public Coordinator (*located at Domestic Relations Court, Second Floor, 301 W. Third Street, Dayton*)
- Show Public Coordinator your Picture ID so your forms can be notarized
- File forms with the Clerk's Office
- **Have your EMERGENCY hearing (SAME DAY YOU FILE)**

You will have a FULL HEARING, 7- 10 days later. If you get an emergency protection order from the Court, the sheriff will serve it on the other party. This tells the other party to stay away from you and to appear for the full hearing. **THIS COULD BE A DANGEROUS TIME FOR YOU – YOU SHOULD HAVE A PLAN TO KEEP SAFE! CONTACT ONE OF THE LOCAL HOTLINES TO SAFETY PLAN OR GET OTHER SERVICES: 937-461-4357 OR 937-222-7233**

FORM 10.01-A: GENERAL INFORMATION ABOUT DOMESTIC VIOLENCE PROTECTION ORDERS

DEFINITIONS YOU NEED TO KNOW

Domestic violence is when a family or household member uses physical violence, threats, intimidation, and/or emotional, sexual, and economic abuse to maintain power and control over the other person, usually within an intimate relationship. Domestic violence is most often a combination of psychological and physical actions; the physical results are just the most visible. Domestic violence is a pattern of conduct in which one intimate partner uses force or threats of force to control the other person.

State law has determined that some forms of abuse do not constitute criminal behavior or behavior requiring the Court's intervention. For example, psychological battering, economic abuse, or verbal harassment without evidence of threats or physical harm are not recognized by Ohio law as domestic violence that allows a petitioner to obtain a protection order or request that criminal charges be filed.

When a family or household member tries to cause you bodily harm by hitting, pushing, beating, or physically hurting you, that is domestic violence. When a family or household member makes you afraid that you will be harmed, that is domestic violence. When a family or household member stalks, commits sexually oriented offenses against you, or forces sexual relations on you, that is domestic violence. When a family or household member abuses your children, that is domestic violence.

IN A CIVIL DOMESTIC VIOLENCE CASE:

Petition for Domestic Violence Civil Protection Order ("CPO") is the document a domestic violence victim, the victim's parent, or an adult household member of the victim must file with the domestic relations court to obtain a civil protection order against an alleged offender.

Domestic Violence Civil Protection Order ("CPO") Ex Parte is an emergency order the Court issues in response to the Petition for a Civil Protection Order after an *ex parte* hearing. The *ex parte* hearing is described in this form on page 3.

Domestic Violence Civil Protection Order ("CPO") Full Hearing is the final order the Court issues after a full hearing. The full hearing is described in this form on page 3. The full hearing CPO replaces the *ex parte* CPO. Sometimes the final order issued by the Court is a **Consent Agreement and Domestic Violence Civil Protection Order**, Form 10.01-J, upon terms agreed to by the parties.

Petitioner is the person asking or "petitioning" the Court for protection. By filing the Petition for a CPO, YOU are the Petitioner.

Respondent is the alleged domestic violence offender. Petitioner seeks protection from the Respondent by filing for a CPO.

IN A CRIMINAL DOMESTIC VIOLENCE CASE:

Motion for a Criminal Domestic Violence Temporary Protection Order ("DVTPO") is the document that must be filed in a criminal case if a victim of domestic violence or victim of a sexually oriented offense wishes to obtain a protection order against an alleged offender, who is a family or household member. The criminal case must allege the offender committed negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any offense of violence, or any sexually oriented offense against a family or household member. The prosecutor has a form for this purpose.

Domestic Violence Temporary Protection Order ("DVTPO") is the order the Court issues in response to the Motion for Temporary Protection Order. The DVTPO requires the offender to stop abusing and to stay away from the victims named in the Motion for Temporary Protection Order. A DVTPO expires when the alleged offender's criminal case ends or when a new CPO is issued based on the same facts.

Alleged Victim is the person asking the Court for protection in the Motion for a DVTPO.

Defendant is the person the Motion for a DVTPO is filed against. The Defendant is the person accused of the crimes of negligent assault, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, endangering children, any sexually oriented offense, or any offense of violence against a family or household member.

FEES

You **cannot** be charged any costs or fees for filing, issuing, registering, modifying, enforcing, dismissing, withdrawing, serving, or obtaining a protection order.

DOMESTIC VIOLENCE CIVIL PROTECTION ORDERS (CPO)

What is a Domestic Violence Civil Protection Order (“CPO”)?

A CPO is issued by a domestic relations court to protect a victim of domestic violence. A CPO is intended to prevent further domestic violence. It orders someone who has been abusive to do or not do certain things in the future. You may want to consider getting a CPO even if you have a DVTPO from a criminal court because a CPO lasts longer and provides more benefits – such as child custody and support orders. Domestic violence includes the commission of sexually oriented offenses.

Violating a CPO is a crime. If the Respondent violates the CPO, he or she may be arrested, jailed, and fined for disobeying the CPO. A CPO can remain in effect for up to 5 years. If the Respondent violates the CPO, you can call the police, go back to the domestic relations court to file a contempt charge, and go to the prosecutor's office to have the Respondent charged with the crime of violating the CPO.

Why get a Domestic Violence Civil Protection Order?

If you are a victim of domestic violence, a CPO may help you. Once domestic violence starts, the violence often happens more often and gets increasingly severe. A CPO may stop this cycle of violence because the Court orders the Respondent to stop hurting or threatening you and your family or household members. The Court can use a CPO to order the Respondent to stay away from you for up to five years. A CPO can give you time to "sort things out" and decide what you want to do next without having to be afraid all of the time. If your children have seen domestic violence, a CPO may give all of you a chance to get some help so that you and your children are safe.

Domestic violence is a crime. A CPO tells the Respondent you and the Court are serious about requiring the Respondent to stop his or her abusive behavior and not to hurt or threaten you again.

A CPO sets some "rules" that the Respondent must obey while the CPO is in effect. These rules may require the Respondent to pay child or spousal support; give up possession of a home or car; and/or obey the Court's orders about visitation.

A CPO issued by a domestic relations court may last longer than a DVTPO issued by a criminal court and can provide more kinds of help. You should know that if you get a CPO based upon the same facts as the DVTPO, the DVTPO from the criminal court will automatically end, even if the criminal case continues.

Who can get a Domestic Violence Civil Protection Order?

You can apply for a CPO if you are related to the Respondent by blood or marriage AND have lived with Respondent at any time; OR you are living with or have lived with the Respondent during the past five years; OR you used to be married to the Respondent; OR you have a child with the Respondent, whether or not you ever married or lived together.

You can also get a CPO for any member of your household.

You may be able to get a CPO if you have been dating the Respondent; if you share family or financial responsibilities with the Respondent; AND you have an intimate relationship with the Respondent.

Remember that a CPO has limits. If you suspect that the Respondent will not obey the terms of a CPO, contact your local domestic violence program or the Ohio Domestic Violence Network at 800-934-9840.

Do I need an attorney for me to obtain a Domestic Violence Civil Protection Order?

No, but you are often better off having legal representation in your CPO proceeding. Neither the Clerk of Court nor other Court employees can give you legal advice. Having an attorney represent you is especially helpful when your case involves contested custody and visitation and/or when an attorney represents the Respondent. If you cannot afford an attorney, contact your local legal aid office at 866-LAWOHIO (toll free), bar association, or Ohio State Legal Services (800-589-5888) for information on low cost or free legal representation.

Must there be a court hearing for me to obtain a Domestic Violence Civil Protection Order?

Yes. There are two hearings involved in a CPO case: the *ex parte* hearing and the full hearing.

Ex Parte Hearing: At this hearing, only you are present. The Respondent is not present.

An *ex parte* hearing is held on the same day a Petition for Civil Protection Order is filed. If a Petition for a CPO is filed early enough in the day, an *ex parte* hearing is held that same day. At the *ex parte* hearing, you take an oath to tell the truth and a judge or magistrate hears your statement of what happened. If the judge or magistrate finds that the events you described meet the requirements of the law, the Court will issue an *Ex Parte* CPO and schedule a full hearing. If the Respondent is asked to vacate the home in which you live, there will be a full hearing within 7 business days. Otherwise, a full hearing will be set within 10 business days. The Court can hold a full hearing only after the Respondent has been served with the *Ex Parte* CPO. You may need to fill out forms for the Clerk of Court to cause service.

Full Hearing: The full hearing is the final hearing.

At this hearing, both you and the Respondent can testify. You must be present at the full hearing. You should bring any witnesses and other evidence to support your case. If the Court issues a Full Hearing CPO, it remains in force until the date indicated in the CPO, with 5 years being the maximum.

If the Respondent does not show up for the full hearing, you can still obtain a final CPO. However, if the Respondent is not served with the *Ex Parte* CPO before the full hearing, the Court postpones the full hearing until the Respondent is served. If the full hearing is postponed, the *Ex Parte* CPO remains in effect until the full hearing is held.

You may bring an advocate with you to the *ex parte* and full hearings for support. Some domestic violence shelters and victim assistance programs can provide advocates to go with you to these hearings. Contact your local domestic violence program or the Ohio Domestic Violence Network, 800-934-9840, for program and shelter information.

CRIMINAL DOMESTIC VIOLENCE TEMPORARY PROTECTION ORDERS (DVTPO)

Your local criminal court grants a DVTPO. You ask the Court for a DVTPO when a criminal complaint is filed alleging someone has committed domestic violence or a sexually oriented offense against you. The DVTPO orders someone who has abused you to do or stop doing certain things in the future. Violating a DVTPO is a crime. If the Defendant violates the DVTPO, the Defendant may be arrested, jailed, and fined for disobeying the DVTPO. Violating a DVTPO is also a reason for the Court to revoke the Defendant's bail. A DVTPO lasts only until the criminal case is ended or a CPO, based on the same facts, is issued by a domestic relations court.

RESOURCES

You can find information about Domestic Violence Civil Protection Orders in R.C. 3113.31 and information about Domestic Violence Temporary Protection Orders in R.C. 2919.26.

You may be able to find additional information about domestic violence at the following web sites:

- | | |
|---|--|
| Ohio Domestic Violence Network | www.odvn.org |
| Ohio Legal Help | www.ohiolegalhelp.org |
| National Resource Center on Domestic Violence | www.nrcdv.org |
| Supreme Court of Ohio – Domestic Violence Program | www.supremecourt.ohio.gov/domviol |

PLEASE NOTE: Computer use can be monitored. It is impossible to completely clear all website footprints. If you are in danger, please use a safer computer that your abuser cannot access directly or remotely. For example, computers at a public library, internet café, domestic violence shelter, or community technology center, may be safer computers.

FORM 10.01-C: INFORMATION ABOUT FILING A DOMESTIC VIOLENCE OR DATING VIOLENCE CIVIL PROTECTION ORDER PETITION

- If you have any questions about completing the Petition for a Domestic Violence Civil Protection Order (Form 10.01-D) or the Dating Violence Civil Protection Order (Form 10.01-P), contact the local victim assistance program, domestic violence program, or Ohio Domestic Violence Network at 800-934-9840.
- Neither the Clerk of Court’s Office nor the local domestic violence program can give legal advice. If you need legal advice, talk to a lawyer. Only a lawyer can give you legal advice.
- There is NO FEE for filing the Petition.
- Once completed, take the Petition and other necessary documents to the Clerk of Court’s Office.
- If you want an emergency order, also known as an *Ex Parte* Protection Order, check “want” in paragraph 2 of the Petition. [MONTGOMERY COUNTY REQUIRES AN EX PARTE HEARING]
- The Court will consider your request for an *Ex Parte* Protection Order and may ask you questions.
- Regardless if an *Ex Parte* Protection Order was requested, granted, or denied, a full hearing will be scheduled.
- You must attend the full hearing. Your victim advocate may also be present at the hearing.
- On the day of the full hearing, be prepared to (1) tell the Court what happened, (2) bring with you any witnesses, evidence, and documentation to prove your case, and (3) ask Respondent questions.
- Respondent may be represented by a lawyer. You may represent yourself or ask for a continuance to obtain a lawyer. [R.C. 3113.31(D)(2)(a)(iii)]
- Respondent or Respondent’s lawyer may present evidence and ask you questions.
- The Court cannot issue a protection order against you unless Respondent has filed a Petition.

DEFINITIONS	
Domestic Violence [R.C. 3113.31]	“Domestic violence” means the occurrence of one or more of the following acts against a family or household member or a person with whom Petitioner has a dating relationship: attempting to cause or recklessly causing bodily injury; placing another person by the threat of force in fear of imminent serious physical harm or committing menacing by stalking or aggravated trespass; committing any act with respect to a child that would result in the child being an abused child, as defined [by law]; or committing a sexually oriented offense.
Person with Whom Respondent Is or Was in a Dating Relationship [R.C. 3113.31(A)(9)]	An adult who, at the time of the conduct in question, is in a dating relationship with Respondent who also is an adult or who, within the twelve months preceding the conduct in question, has had a dating relationship with Respondent who also is an adult.

<p>Dating Relationship [R.C. 3113.31(A)(8)]</p>	<p>A relationship between adults who have, or have had, a relationship of a romantic or intimate nature.</p> <p>"Dating relationship" does not include a casual acquaintanceship or ordinary fraternization in a business or social context.</p>
<p>Family or Household Member [R.C. 3113.31(A)(3)-(4)]</p>	<p>"Family or household member" means either of the following:</p> <p>(1) Any of the following who is residing with or has resided with Respondent, such as a spouse, a person living as a spouse, or a former spouse of Respondent; a parent, a foster parent, or a child of Respondent, or another person related by consanguinity or affinity (blood or marriage) to Respondent; a parent or a child of a spouse, person living as a spouse, or former spouse of Respondent, or another person related by consanguinity or affinity (blood or marriage) to a spouse, person living as a spouse, or former spouse of Respondent.</p> <p>(2) The natural parent of any child of whom Respondent is the other natural parent or is the putative other natural parent.</p> <p>"Person living as a spouse" means a person who is living or has lived with Respondent in a common law marital relationship, who otherwise is cohabiting with Respondent, or who otherwise has cohabited with Respondent within five years prior to the date of the alleged occurrence of the act in question.</p>