

What can you do if the Order is violated?

Call the Family Court Domestic Violence Unit if the abuser's only violation is failure to return personal property, failure to pay support or rent, not complying with custody or visitation conditions, or failing to attend domestic violence counseling. In those cases the Family Division will process your request to enforce the order.

If the abuser violates any of the other parts of the order **CALL THE POLICE**. For some violations (having contact with you or coming to the house, for example) or if the abuser violated the order by committing a crime, (for example, stalking you, harassing you, or trespassing) the local police must sign a criminal complaint for contempt.

Can I file criminal charges?

You can file criminal charges against the abuser for acts of domestic violence, because they are all crimes. Criminal charges can only be filed at the local police department, and they will usually be heard at the local municipal court. For very serious crimes, the county prosecutor may take your case to state criminal court. You do not have to file criminal charges, but the law does allow you to file them if you choose, even if you get a restraining order. You have at least a year after any incident to file criminal charges. The police can also file charges on their own and must do so when you show signs of injury or if a weapon was used. If the abuser is found guilty of the criminal charges, the court can impose fines, probation, or even jail as punishment.

**This information is provided by the
New Jersey Statewide Domestic Violence Hotline and
distributed by the New Jersey Division on Women.
If you have any questions or need further assistance
please call the hotline at 1-800-572-7233,
24 hours a day, 7 days a week.**

Se habla Español. TDD accessible.

For extra copies of this brochure, call (609) 292-8840.

CALL 1-800-572-7233
NEW JERSEY DOMESTIC VIOLENCE HOTLINE
Translators Available In Any Language
TTY: 609-392-2990

Domestic Violence Court Procedures



What is a Restraining Order?

A Restraining Order is a Court Order that is intended to protect you from further harm from someone who has hurt you; to keep the abuser away from you, or to stop harassing you; or keep the abuser from the scene of the violence, which may include your home, place of work, or apartment. It is a civil order, and it does not give the defendant (the abuser) a criminal record.

Who can get a Restraining Order?

A victim of domestic violence can obtain a Restraining Order. A "victim of domestic violence" means a person protected by the law and shall include any person who has been subjected to domestic violence by a spouse, former spouse, or any other person who is a present or former household member and where the victim is 18 years of age or older or who is an emancipated minor.* A victim, of any age, who has been subjected to domestic violence by a person with whom the victim has a child in common, or if the victim is pregnant by a man who she says will be the father of the child when the pregnancy is carried to term is also covered by this law. A victim, of any age, also includes any person who has been subjected to domestic violence by a person with whom the victim has had a dating relationship.

Domestic Violence means the occurrence of one or more of the following acts committed against a victim by an adult or an emancipated minor.

assault	criminal sexual contact	kidnapping
burglary	criminal trespass	lewdness
criminal mischief	false imprisonment	sexual assault
criminal restraint	harassment	stalking
terroristic threats	homicide	

* Emancipated minor means a person who is under 18 years of age but who has been married, has entered military service, has a child or is pregnant, or has been declared by a court or administrative agency to be emancipated.

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What does a Restraining Order do?

If you are a victim of domestic violence, a judge can sign an order of protection that requires the abuser to obey the law. It is usually very specific. For example:

1. The abuser can be ordered not to have any contact with you, in person or by phone, at home, work, or almost anywhere you ask the court to put in the order. The order against contact may also protect other people in your family.
2. The court can order the abuser to leave the house or apartment that you and the abuser share, even if it is in the abuser's name.
3. Except in the most unusual situations, the court will grant you custody of your minor children. The court can also order the abuser to pay child support and support for you. The abuser may also be granted visitation with the child(ren) under certain conditions. If the children are in danger of abuse, you should let the judge know why you think so.
4. The court may order the abuser to pay for costs that resulted from the abuse, for example: household bills that are due right away, medical/dental treatment, moving expenses, loss of earnings. The judge can also make the abuser pay your attorney's fees, and can make the abuser pay damages to you or other people that helped you or got hurt by the abuser.
5. The judge may order the abuser to receive professional domestic violence counselling, or tell the abuser to go get evaluated, or to go to AA or NA. You can agree to go to counseling if you want to (or a free program like AA or Al-Anon), but the judge will only make it an order for the abuser.
6. The judge can order the police to escort the abuser to remove personal items from the residence or shared place of business, so that you are protected by the police during any necessary contact.

The judge has the power under the law to order anything else that will help to protect you, as long as you agree to it.

How do you file a Restraining Order?

Monday through Friday between 8:30 a.m. and 3:30 p.m., except on a holiday, you can go to the Domestic Violence Unit of the Family Division and apply for the order. Court employees will help you file the papers on forms they will provide.

If it is after the end of the court day, a holiday, or a weekend, you can go to your local police department to obtain an order. They have the forms and can call a judge to get an order that starts immediately. You will be asked to speak to the judge by telephone, unless the judge chooses to come to the court to hear your testimony directly.

If English is not a language you usually speak, you may want to bring a friend with you to interpret. An interpreter should be provided for you any time you are scheduled to appear in court, but might not be available at the police station.

How long does the Order remain in effect?

When you first get protection under the law it is only temporary. The order is called a T.R.O. for Temporary Restraining Order. You must return to court on the date indicated in the T.R.O., which will be about 10 days later. Both you and the abuser will be asked to appear in court on that date. During the 10-day period the police or Sheriff's Office will serve the abuser with a copy of the order, so the abuser will know when the hearing is. Keep a copy of the order with you and give a copy to the police in any town where you think the abuser might bother you.

What happens in court?

If you apply for the T.R.O. in the Family Division, you will appear before a judge so you can tell him/her what happened. You will usually appear before a judge without the abuser being present.

When you return to court on the date indicated in your order, the abuser has a right to be present. Both you and the abuser will have the opportunity to tell the judge what happened between you. You are allowed to bring a lawyer to this hearing, but it is purely your choice. (If you have any questions, especially if you do not have an attorney, please call one of the numbers in this pamphlet and ask.) At the end of this hearing the judge will determine if you should receive a final order, for how long, and under what conditions.

If the abuser does not appear at the hearing, the judge will either continue the temporary order in effect until the abuser can be brought into court, or will enter a final order if there is proof that the abuser was served with the T.R.O./Notice to Appear. The sheriff or police should have proof of service. You cannot be asked or told to serve papers on the abuser.

If you do not appear, and have not made arrangements with the court to reschedule the case, someone from the court will attempt to contact you by phone at home or work, or they may send you a certified letter if you have no phone. The courts take domestic violence very seriously, and will be worried about your safety if you do not call. If they cannot find you, your restraining order may be dismissed and you will no longer have the protection granted in the order.

What happens next?

The court will give you a copy of the order. Be sure to ask someone before you leave the court if there is anything you do not understand. **CARRY IT WITH YOU AT ALL TIMES.** If the abuser does not obey the order, **CALL THE POLICE.** The police have to arrest an abuser who violates any part of the order that protects you from threats or violence.

You have the right to police protection. If you carry your order with you at all times, it will be easier for the police to understand your current situation. If you lose your order, or it gets destroyed, return to the court and obtain another copy.