**How to Obtain an Order of Protection**

**Glossary:**

Petitioner / Plaintiff

Is the person filing / petition for an Order of Protection.

Respondent/ Defendant:

Is the person the Order of Protection is against.

**Filing Steps:**

1. The Petitioner obtains Order of Protection Packet from either City Court, Justice Court, or District Court.
2. The Petitioner fills out the packet completely and waits to sign the packet until in front of a notary.
3. The Petitioner files the packet with the Court Clerk
4. The Court Clerk then files the packet and gives to the Judge for review and signature.
5. The Judge will either grant or deny the Temporary Order of Protection
6. If granted, the Court Clerk will send the Respondents documents to the Sheriff’s Office for service and will contact the Petitioner letting them know it was granted and the date of the hearing.

If denied, the Court Clerk inform the Petitioner of the denial.

1. At the hearing the Judge will decide the outcome of the Temporary Order of Protection; either extend the order for a determined length of time or dissolve the order.
2. IF extended, the order will be in effect until the expiration date.

**What is an Order of Protection?**

The purpose of an Order of Protection is to promote the safety and protection of all victims of partner and family member assault, victims of sexual assault, and victims of stalking (see last page for Descriptions of Abuse). The victim must petition the courts for a Temporary Order of Protection.

**What does an Order of Protection do?**

An Order of Protection prohibits the offender from threatening to hurt an adult victim or child.

It also:

* Directs the offender to leave the home and prohibits the offender from contacting the victim directly or indirectly by any means.
* Prevents the offender from transferring any property except in the usual course of business.
* Prohibits the offender from being within a set distance (determined by the court) of the victim, any named family members, and workplaces or other specific sites.
* Gives victims possession of necessary personal property.

**How to get an Order of Protection?**

The Petitioner obtains an Order of Protection packet from either City Court, Justice Court, or District Court. The Petitioner fills out the packet complete and signs the packet in front of a Court Clerk or Notary. The Petitioner files the packet with the Court Clerk and obtains a case number with the representing judge.

The Petitioner may apply for a Temporary Order of Protection if:

* They are in reasonable apprehension of bodily injury by their partner, and/or family member.

or

* They are a victim of assault, intimidation, criminal, or negligent endangerment, and/or stalking.

\*If you are a minor, your parent, guardian, or other representative may file a petition for a Temporary Order of Protection on your behalf against the Respondent.

The Temporary Order of Protection will be issued for up to 20 days: after that time, a hearing will be held to determine wither the Order of Protection should be kept in effect. The Respondent will get notice of the hearing. The Respondent will have the right to appear and contest the order. **The Petitioner must appear at the hearing to request an extension, or the Order will be discontinued**. If the Respondent has received notice of the hearing, and decided to not appear then the court will rule on the extension of the Order without the Respondent present. The Order is then referred to as a Permanent Order of Protection.

**Preparing for the Hearing:**

The Petitioner will need to decide what relief they want the court to grant them. The Petitioner is asking a judge to grant an order of Protection against the Respondent. The Petitioner will need to specifically tell the judge what they want the Order to say.

The Petitioner will decide what evidence to bring to the hearing. It is the Petitioner’s responsibility to keep all their evidence organized.

Evidence can be:

* The Petitioner’s testimony
* The testimony of witnesses
* Documents
* Photos
* Objects

\*All electronic evidence must be printed out.

**What Happens at the Hearing?**

If the Respondent does not appear at the hearing, the judge may grant an Order of Protection for the Petitioner without considering the evidence.

If the Respondent appears and agrees that an Order of Protection should be granted, the judge may grant an order of Protection without considering the evidence.

If the Respondent appears and disagrees that an Order of Protection should be granted, the judge will ask for both parties to state their case.

**The Hearing:**

The Judge will ask the Petitioner to state their case for the record first.

**The Petitioner:**

* Will be sworn in to testify truthfully
* Take the stand
* Present evidence and have witnesses testify
  + - * + Petitioner should have questions prepared ahead of time for the witnesses
        + Questions should be asked of the witnesses to testify to their knowledge of the need for the Order of Protection
    - Ask for relief needed
    - The Judge may ask specific questions about the case

After the Petitioner is finished, the Respondent will then be able to state their case for the record.

**The Respondent:**

* Will be sworn in to testify truthfully
* Take the stand
* Present evidence and have witnesses testify
  + - * + Petitioner should have questions prepared ahead of time for the witnesses
        + Questions should be asked of the witnesses to testify to their knowledge to the need of the Order of Protection
    - The Judge may ask specific questions about the case

After both the Petitioner and the Respondent finish presenting their cases, the Judge will make a decision to either grant or deny a Permanent Order of Protection.

**What if the Respondent violates the Order of Protection?**

Violation of an Order of Protection is a crime. The Petitioner should contact local law enforcement immediately.

The Petitioner should keep documentation of violations of Orders of Protection.

You have the right to appear in court on your own to request a Temporary Order of Protection. However, the following resources are available in your community to help you through this process: **Victim Witness Coordinator, Katelyn Lavender 222-4139, County Atty’s Office (406-222-4150) or ASPEN (406-222-8154).**

They can also assist you in filling out the temporary order of protection application if need.

Stay in contact with the Clerk of Court for information about your case. The Clerk’s number is: 406- 222-4170

**You should always keep copies of your Order with you**. It is a good idea to always carry one in your purse or wallet, as well as having a copy at work and at your children’s schools.

**DESCRIPTIONS OF ABUSE**

To qualify for a Temporary Orde of Protection, you must satisfy at least one of the situations below and describe in detail on page 3 and 4 of the Temporary Order of Protection application.

1. **PARTNER FAMILY MEMBER ASSAULT** – Respondent, who is my partner or a family member, caused bodily injury to me, used a weapon to cause bodily injury to me, or cause me to rear bodily injury.
2. **ASSUALT** – Respondent cause bodily injury to me, had physical contact of an insulting or provoking nature, or cause me to fear bodily injury. (Assault can include use of a weapon against you.)
3. **INTIMIDATION** – Respondent threatened me with physical harm or confinement, so I would obey him/her.
4. **ENDANGERMENT** - Respondent created a risk of death or serious bodily injury to me.
5. **KIDNAPPING/RESTRAINT** – Respondent held me against my will and interfered with my liberty.
6. **ARSON** – Respondent burned my property or place me in danger of death or bodily injury by fire or explosives.
7. **INCEST** – I am a family member of Respondent, and he/she had sexual contact with me.
8. **SEXUAL ASSAULT** – Respondent had sexual contact with me without my consent.
9. **SEXUAL INTERCOURSE WITHOUT CONSENT** – Respondent had sexual intercourse with me without my consent.
10. **STALKING** – Respondent cause me emotional distress or fear of death or injury by relatedly following me harassing me, or threatening me in person, by phone, by text, by mail or some other method.
11. **DELIBERATE HOMICIDE OR MITIGATED DELIBERATE HOMICIDE** – Respondent killed by partner or family member.