

Civil Protection Orders

Under certain circumstances related to domestic violence, a Civil Protection Order (CPO) may be obtained. The intent of a CPO is to provide protection for victims of domestic violence from further or future injury. Protection orders do not, however, guarantee safety. Each individual victim needs to learn about CPOs and decide if obtaining one would increase or decrease the likelihood of being harassed or harmed by an abuser. A CPO differs from a restraining order and can be obtained by victims without an attorney if certain criteria are met. To file for a protection order, a victim can go to his/her county court house or a local shelter and obtain a form called a *petition*. When filling out the petition, it is best to be as specific as possible and keep in mind the two conditions the judge will be looking for:¹

1. The petitioner must have a **domestic relationship** with the respondent (abusive person). A domestic relationship includes any family or household member that is related by blood or marriage, or who resides or has resided with, or has been married to the person committing the domestic violence. As of July 2000, protection orders can also be obtained in situations where domestic violence takes place against a minor child by a person with whom the minor child has a dating relationship.
2. An **act of violence** or a **threat of violence** must have been committed against the victim by the respondent recently. An **act** of violence would include physical injury, sexual abuse, or forced imprisonment (restricting the free movement of another adult, not letting them leave a house or room, blocking movement or exits). A **threat** of physical injury, sexual abuse, or forced imprisonment is also grounds for a CPO.

The judge is looking for evidence that the victim needs physical protection. Verbal abuse that does not include threats of physical harm, sexual abuse, or forced imprisonment does not by itself constitute grounds for granting a CPO, no matter how demeaning or insulting it is. A victim needs to establish and show reasons why, if they do not receive a protection order, they will be in danger. Being specific and sticking with the three areas mentioned (physical injury, sexual abuse, and forced imprisonment), as well as explaining what has happened in the recent past that makes the victim feel vulnerable now are all important aspects of filing for a CPO.

After filling out and returning (filing) the petition to the county courthouse, an **ex parte** hearing should take place within 24 hours. At this hearing the victim (petitioner) will give testimony to the judge related to the conditions for receiving a protection order. The respondent (abusive individual) is not present at this hearing. If a temporary protection order is granted at this hearing it will be in effect for up to 14 days, during which time the judge will schedule a **90-day** hearing. The petitioner will receive a copy of the CPO and should make copies of the order and keep one with her/him at all times. The respondent will be served with notification of the temporary order and the 90-day hearing date within 24 hours. The sheriff's department of the county in which the respondent resides will serve the CPO within

¹ The information in this *Quick Look* on CPOs is specific to the State of Idaho. Criteria and procedures will be similar in other states, but specific information should be obtained from the criminal justice system in the state where the victim of domestic violence lives and/or was abused.

24 hours provided that the petitioner was able to provide accurate information about the location of the respondent. It is the petitioner's responsibility to keep in touch with law enforcement as to the whereabouts of the respondent until he/she can be served. **The CPO is not in effect until the respondent is served.**

At the 90-day hearing, both the petitioner and respondent will have opportunity to give testimony to the judge. Both parties may bring evidence (photographs, phone messages, letters, physician and hospital records, etc.). If the respondent is contesting the CPO, or if there is a discrepancy on the visitation rights or other issues, the judge will listen to both sides and make a decision based on the evidence presented. Both sides will have a fair and equal opportunity to present their case. Several situations could arise during this hearing—

1. The protection order may be dismissed if any of the following apply:
 - ✓ The respondent appears in court, but the petitioner doesn't.
 - ✓ Both the petitioner and respondent fail to appear.
 - ✓ The petitioner requests that the CPO be dismissed.
2. The protection order may be granted for 90 days if:
 - ✓ The judge finds that the petitioner or the respondent is in need of the protection order.
 - ✓ The respondent doesn't appear in court after being served and the petitioner still requests the order.
3. The protection order may be reset for another hearing date (and protection will continue), if any of the following apply:
 - ✓ One party attends court with an attorney and the other wishes to also be represented.
 - ✓ The respondent has not been served and the sheriff's department needs more information to serve him/her.
 - ✓ The judge needs more information to make a decision on a particular part of the CPO.

“A man of great anger shall bear the penalty, for if you rescue him, you will only have to do it again.”
Proverbs 19:19

The CPO may be denied if the judge does not find sufficient evidence of a threat or act of physical abuse, sexual abuse, or forced imprisonment. If a CPO is granted, it will establish the degree of contact/communication that will be permitted between the petitioner and the respondent. It will also establish temporary custody and visitation arrangements if children are involved. The 90-day order may be modified or renewed for up to twelve months through the court.

BOTH PARTIES NEED TO ABIDE BY THE TERMS OF THE CPO. A violation of a protection order occurs when any term of the CPO is violated by either of the parties. In public places, the first party at the location has primary rights to the space. The second party should leave the premises as soon as he/she becomes aware of the other's presence to avoid violating the CPO. Violations should be reported to law enforcement and a personal log kept of both the details of the violation and the police report number assigned to each violation. A violation is considered a misdemeanor, with a possible penalty of up to one year in jail and/or a \$5,000.00 fine.

Additional Resources

Idaho Council on Domestic Violence & Victim Assistance, 1-800-291-0463.
Video – *The Idaho State Court System: Domestic Violence*. Idaho Supreme Court, 334-2246/48.