

What is Domestic Violence?

Domestic violence simply means violence, or the threat of violence, between members of a family or household.

The legal definition of domestic violence includes:

- Causing (or attempting to cause) bodily injury, including sexual assault;
- Making another person believe they are about to be seriously physically harmed;
- Committing menacing by stalking or aggravated trespass;
- Abusing a child.

It is generally **Not** considered domestic violence if someone:

- Calls you bad names (without an act of violence or threat to harm);
- Accuses you of cheating or having an affair;
- Threatens to take your child(ren) or refuses to return them;
- Threatens to call Children and Family Services (Child Protective Services);
- Threatens the filing of legal actions against you (e.g., divorce, custody, visitation);
- Threatens to destroy or take personal property (e.g., keys, cell phone, car);
- Has no history of physical abuse or threat of violence;
- Is abusing drugs or alcohol without a prior history of abusive or threatening behavior toward you or other family or household members;
- Has mental health issues without a prior history of abusive or threatening behavior towards you or other family or household members;
- Uses reasonable parental discipline.

If you are unsure whether the actions of the person in your situation would meet the legal requirements for a finding of domestic violence, you should consult an attorney.

What is a Civil Protection Order (CPO)?

A Civil Protection Order is a tool that can help stop or prevent domestic violence. It is a court order that requires an abusive family or household member to behave in a certain manner. For example, depending on your situation, a CPO could:

- Stop an abuser from entering your home, school or place of employment;
- Grant you custody of your children;
- Require the abuser to stay away from your children;
- Require the abuser to pay you monthly support;
- Require the abuser to see a counselor;

- Force the abuser to leave your home;
- Grant you possession of the residence;
- Grant you use of a motor vehicle and other possessions;
- Forbid the abuser from owning or buying firearms;
- Provide any other protections that the court considers fair and reasonable.

Who Can You File a CPO Against?

You can apply for a CPO against an abusive person if any of these conditions are met:

- You are currently living with the abuser as a spouse or partner; or
- You have lived with the abuser as a spouse or partner at any time during the past five years; or
- You are related to the abuser by blood or marriage, and you have lived with the abuser at some point during the past five years; or
- You used to be married to the abuser; or
- You have children with the abuser.

After a CPO has been issued, the abuser can not have any contact with you—even with your permission. If the abuser violates the CPO, he or she could be criminally charged with violation of a protection order.

Do I Need an Attorney in Court?

Having an attorney represent you in a court case is always recommended, but it is not required. If your abuser has an attorney, it is probably best if you have one too.

You can check with the victim's advocate at the prosecutor's office to find out if there is a domestic violence advocate to assist with CPO cases, or if there is another domestic violence resource within the court. It is advised that you seek legal counsel before filing a CPO case, if:

- There is a pending custody case;
- There is a pending criminal case;
- The abuser is incarcerated;
- If you have children with the abuser and your life is not in order (you could get the CPO and lose custody);
- Child Protective Services is or could become involved;
- Your trauma and fear makes you unable to explain your story to the court or in the presence of the abuser;
- You intend to relocate outside of the county or state;
- You and your child(ren) are at a confidential address and the abuser does not know where you are living;
- If you do not get the full hearing CPO, your abuser might feel more empowered over you.

How Do You Apply for a CPO?

You apply for a CPO through the Court of Common Pleas in the county where you live. Here are the steps involved:

- **Contact the Clerk of Courts** in the Court of Common Pleas/Domestic Relations Division and tell them that you want to apply for a Civil Protection Order. They will give you a petition to fill out.
- **Fill out the petition** and include specific information about the most recent violent incident, along with additional information about past incidents of violence. The Clerk of Courts will tell you how and where to return your petition to the Court.
- **If you are seeking custody of any children on the CPO, you must file a Parenting Proceeding Affidavit with the CPO petition.** If you are also seeking child support for any children on the CPO, you must file a Financial Disclosure Affidavit with the CPO petition. Both of these forms are available through the Clerk of Courts.
- **The court will hold an emergency hearing.** Under certain circumstances, the judge may give you a CPO immediately (called an ex parte, or one-sided order, meaning they have only heard your side of the story).

The next steps in applying for a CPO are:

- **The Judge or Magistrate will consider your petition.** After the ex parte hearing, the Court can either grant an emergency ex parte CPO or not grant the emergency CPO. If the Court grants an emergency CPO, then it will only stay in place until after the court holds a hearing in which both parties are able to attend.
- **The next step is for the Court to schedule the case for a full hearing regardless if an emergency CPO was granted or not.** The Court will assign a date and time for a hearing within about seven to 10 days on your CPO application. You must attend the hearing on the assigned day or your case may be dismissed. Your abuser could be present at this hearing.

Preparing for court

Review your petition and become familiar with what it says before going to court. You should be prepared to present information about your case. You need to present everything you presented at the emergency CPO hearing. If you have access to recent police reports, medical reports or pictures that show abuse, you should gather and bring them to court. You should also bring any witnesses with you that have first-hand knowledge about the domestic violence.

On the day of the hearing, you should dress neatly; typically dress pants or a skirt or dress are most appropriate. It is

recommended that you do not bring children with you to court.

What Can Happen in Court?

Depending on your situation, one of the following could happen:

- **The abuser does not appear at the hearing because the abuser is not notified of the hearing.** If the abuser was not served with the notice of the hearing, and does not show up at court, your case could be continued. You will receive a new Court date and be asked if there is any other address (home or work) where the Court can try to serve the abuser with notice of the hearing. If you have an ex parte CPO, it will be valid through your new court date.
- **The abuser was notified but does not show up.** Even though the abuser is not present, you will still have to attend the hearing and provide the court with the reasons why you need a CPO. This will likely be just like the emergency order when the abuser was also not present for that hearing. You will tell your side of the story, including the incident that caused you to file for a CPO, past acts of domestic violence, and what you are asking the court to grant you.
- **The abuser appears at the hearing and requests a continuance.** Your case may be continued if the abuser would like to get an attorney. If this happens, it is in your best interest to get one, too. If the abuser shows up at court with an attorney, you may request a continuance to seek an attorney. If your case is continued, you will be given a new court date. If you have an ex parte CPO, it will be valid through your new court date.
- **The abuser agrees to a Consent Agreement.** If the abuser shows up at court, you may be able to enter into a consent agreement, where the abuser agrees to the terms that you are requesting. If the abuser agrees, then no hearing takes place. In a consent agreement, the abuser is not admitting or denying that an act of domestic violence occurred; the abuser is only agreeing to the CPO and to stay away from you.
- **The abuser denies the allegations.** If the abuser denies the domestic violence allegations, the court will schedule a hearing to determine if you are entitled to have a CPO. The Court will either hold the hearing that day or schedule it for another day if more time is needed by the Court.

To protect yourself from a violent act, you should develop and follow a safety plan. It is important to get further information about your options from a domestic violence service provider or a victim's program.

For a list of shelters and programs in Ohio, please contact the Ohio Domestic Violence Network toll-free at (800) 934-9840 or www.odvn.org or the National Domestic Violence Hotline at 800.799.SAFE (7233).



CIVIL PROTECTION ORDER

MIKE FOLEY

MONTGOMERY COUNTY CLERK OF COURTS



TO CONTACT

937.496.7623

41 N. PERRY STREET
DAYTON, OHIO 45402

www.courhousetoyou.com

