

ALBUQUERQUE DIVORCE LAWYER BLOG

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What is a Domestic Violence Order of Protection?

An order of protection is a type of restraining order issued to protect victims of domestic violence that is authorized by the Family Violence Protection Act. An Order of Protection basically prohibits contact between an alleged victim and the person the alleged abuser.

After an alleged victim of domestic violence (called the Protected Party) files a Petition alleging that another person (called the Restrained Party) has committed an act of domestic abuse, the court will issue a Temporary Order of Protection against the Restrained Party and order both parties to appear at a hearing.

The Temporary Order of Protection forbids the Restrained Party from any contact with the Protected Party until the hearing. This often means that a Restrained Party cannot return to their home and it also prohibits contact by telephone, e-mail and texting.

A Petition for Order of Protection is not a criminal action. However, a Restrained Party who violates the Order of Protection in any way is subject to immediate arrest. In addition, the person can be subject to both criminal charges and contempt of court. So if you are served with an Order of Protection, it is very important that you read the terms of the Order carefully and strictly obey them.

At the hearing, which should occur quickly after the filing of the Petition, the court will decide whether or not an act of domestic abuse has occurred. Depending on where you live, the hearing may be presided over by a judge, a hearing officer or a special commissioner. If the presiding official makes a finding that domestic abuse has occurred, the court will issue an extended Order of Protection for 6 months. The Order can be extended for up to a year for good cause with Motion to Extend the Order of Protection Against Domestic Violence.

A finding of domestic violence can have serious long-term implications, including prohibiting a Restrained Party from ever possessing a firearm. A finding of domestic violence can have serious immigration consequences resulting in the initiation of removal proceedings and eventual deportation of an offending immigrant. Finally, a finding of domestic violence will often bar certain types of employment and more often than not will have grave consequences for governmental security clearances.

The parties to a Petition for Order of Protection may want to consider agreeing to a Stipulated Order of Protection, which can allow them to avoid some of the consequences of a finding of domestic violence. After all, the consequences outlined above can be devastating to both the party found guilty of domestic violence as well as the alleged victim who is often left with no means of financial support for her and the children.

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