

ORDER FOR PROTECTION IN MINNESOTA - OFP

If you have been served with an Order for Protection – commonly referred to as an OFP, or if you are seeking an Order for Protection, the family law attorneys at [Cundy and Martin](#) can assist you with understanding your rights.

If you have been served with an Order for Protection:

If you have been served with an Order for Protection, it is important that you consult with an attorney immediately to discuss your rights, as in most cases you only have five days to request a hearing after you are served with an Order for Protection. In the alternative, if you are served with an Order for Protection and a hearing has already been scheduled, the hearings often take place within 5-7 days of the date you were served with an Order for Protection, so it is also important that you contact an attorney immediately.

If you are seeking an Order for Protection:

If you are the party seeking an Order for Protection you should contact Family Court Services at your local county courthouse. Generally, the staff at the courthouse can provide you with the forms you will need to complete to ask the Court to grant you a Temporary Order for Protection, also referred to as an Ex Parte Order for Protection. You will fill out a Petition for an Order for Protection, and in your Petition, you will provide specific details regarding the domestic abuse which has occurred between you and the other party. The Court Services staff will then take your Petition to one of the District Court Judges and a Judge will decide whether or not to grant your Order for Protection. If your Order for Protection is granted, the person against whom you are seeking an Order for Protection will be personally served with the Order for Protection. Often the family law attorneys do not get involved in the process until the hearing has been scheduled and the party who is seeking the Order for Protection retains an attorney to represent him/her at the hearing.

Additional Information about Orders for Protection:

A request by a party for an Order for Protection after an act of domestic abuse is a civil proceeding governed by Minnesota law. Physical harm, infliction of fear of physical harm, and threat of physical harm are all considered forms of domestic abuse. An Order for Protection may be issued to protect an individual and children from future harm. A violation of an Order for Protection is a criminal act.

Orders for Protection are often referred to by parties and police officers as “no contact orders” or “restraining orders,” but there are significant differences between an Order for Protection, a criminal no contact order (or criminal Domestic Abuse No Contact Order - DANCO), and a Harassment Restraining Order:

- First, an Order for Protection is a “civil” order, as opposed to a [“criminal”](#) order, and family law attorneys commonly represent clients in civil order for protection

matters. Additionally, initial hearings for Order for Protection matters are heard in family court, rather than criminal court. However, if an Order for Protection is violated, the violation is a criminal violation and the violation proceeding will be heard in criminal court.

- Second, if a domestic abuse victim contacts the police to report the abuse, and criminal charges are filed against the abuser, the criminal court may issue a criminal “Domestic Abuse No Contact Order”, also referred to as a DANCO, as part of the criminal proceeding. But this criminal DANCO is separate from a civil Order for Protection. A victim of abuse may also seek a separate civil Order for Protection in family court so that the Court can deal with temporary custody issues, temporary financial support issues, temporary issues regarding occupancy of the homestead, etc. which cannot be handled by the criminal court issuing a DANCO.
- Third, if an individual cannot file for an Order for Protection because he/she does not meet the requirements for an Order for Protection (which requires the parties to be family or household members); or, if there has not been domestic abuse, but there have been repeated incidents of unwanted or unwarranted contact between two individuals (examples are: repeated phone calls, text messages, or stalking), a party can file for a Harassment Restraining Order (HRO). This is also a civil Order, and you can apply for the HRO at your local courthouse. However, a proceeding for an HRO is heard in civil court, rather than family court.

Accusations of domestic abuse, or the issuance of an Order for Protection, may have a significant affect on any subsequent divorce or [paternity](#) proceeding involving custody or parenting time issues. Additionally, if an accused individual testifies at a domestic abuse hearing, he or she may potentially be waiving the right to remain silent at a subsequent criminal hearing.

Whether you are seeking an Order for Protection or defending yourself against an accusation of domestic abuse in an Order for Protection matter, it is imperative to consult with an experienced family law attorney to ensure that your rights will be protected. Please contact our office and speak with one of our [Family Law attorneys](#).

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