

ORDER OF PROTECTION FREQUENTLY ASKED QUESTIONS BY PLAINTIFFS

Q. Who can get an order of protection?

- A. An order of protection (OP) may be issued against a spouse, an ex-spouse, a person with whom you have or are expecting a child with, a person who lives or has lived with you, or a relative by blood (parent, grandparent, child, grandchild, brother or sister), or court order (adopted child) or marriage (parent-in-law, grandparent-in-law, step-child, step-grandchild, brother-in-law or sister-in-law), persons who are or have been in a romantic or sexual relationship or a child who has a relationship with the defendant who has committed or may commit an act of Domestic Violence.

Q. What is an act of domestic violence?

- A. In Arizona, domestic violence means:
1. That you and the other person (the defendant) have a specific relationship and
 2. The defendant has committed or may commit a certain type of crime against you.
- Those crimes include physical assault, threatening words or conduct, harassment by phone and in person, stalking, endangerment, unlawful imprisonment, kidnapping, criminal trespass, criminal damage, disorderly conduct, disobeying a court order, custodial interference, and certain crimes against children.

Q. Who can get an injunction against harassment?

- A. An injunction against harassment may be issued to restrain a person from committing acts of harassment. Arizona Revised Statutes 12-1809R, defines harassment as a series of acts over any period of time that is directed at a specific person that would cause a reasonable person to be seriously alarmed, annoyed or harassed and the conduct in fact seriously alarms, annoys or harasses the person and serves no legitimate purpose. Harassment includes unlawful picketing, trespassory assembly, unlawful mass assembly, concerted interference with lawful exercise of business activity and engaging in a secondary boycott as defined in section 23-1321 and defamation in violation of section 23-1325.

Q. Where do you get an order of protection or injunction against harassment?

- A. Any Court in Arizona can issue an Order of Protection or Injunction Against Harassment.

If you have filed for paternity, maternity, annulment, legal separation or dissolution of marriage (divorce) against the person from whom you need protection, the petition for a protective order must be filed in the Superior Court.

Only the Superior Court can make decisions affecting child custody or parenting time. Custody and parenting time decisions must be addressed in a separate action in Superior Court.

Q. What should be included in the petition for an order of protection?

A. The petition should state the reason for the request with specific acts that have occurred within the past year. The acts, threats or injuries you received, the dates they occurred, any prior domestic violence charges filed, whether any past or current Orders of Protection have been issued, whether the defendant possesses or has access to firearms and whether the defendant is currently in custody are important facts for the Judicial Officer to know. For the order to be served, you must also provide an accurate physical description of the defendant.

Q. Must the petition include specific addresses?

A. Your home, work and other addresses may be kept confidential if the defendant does not know them, although a mailing address must be given to the Court so you can be notified of future hearings. If you have this information, you should provide a valid home or work address where the defendant can be found, so the order entered by the Judicial Officer can be served. If the defendant is in jail, the order may be served there.

Q. What if I move or change my telephone number?

A. Contact the court that issued the order regarding their procedure for updating any new address or phone number. You may need to be contacted if the defendant requests a hearing. Otherwise, if a hearing is set and you do not appear, the order will be dismissed.

Q. What if I do not know where the defendant is?

A. You will receive a copy of the Order of Protection or Injunction Against Harassment. Keep two copies with you at all times. If the defendant appears, call the police or sheriff and they will use one of your copies to serve the papers so the order will become effective.

Q. What will happen when I come to court?

A. You must complete a Petition for an Order of Protection or Injunction Against Harassment. A Judicial Officer will review your Petition and hear your sworn testimony and any other important evidence. The Judicial Officer will decide whether your order will be issued immediately or whether a hearing will be set.

Q. What can the Judicial Officer order?

A. A Protective Order can direct a defendant to have no contact of any sort with you anywhere. "Contact" may include telephone calls, letters, email, messages through third persons, visits to or near your residence, place of employment or personal contact.

If an Order of Protection is issued, the Judicial Officer can decide whether the defendant must leave a residence shared by you and the defendant. Finally, if the Judicial Officer finds that serious physical injury could occur, the defendant may be ordered not to possess firearms while the order is in effect. The Judicial Officer may also grant you the exclusive care, custody or control of any animal that is owned by you, the defendant or a minor child living in your household if you believe the defendant is a danger to the animal(s).

Q. What will the Judicial Officer not order in an Order of Protection or Injunction Against Harassment?

A. A Judicial Officer will NOT decide issues of child custody, parenting time or support payments. A Judicial Officer will NOT divide marital or jointly owned property. Judicial Officer will NOT decide guilt or innocence in a pending criminal charge against a plaintiff or a defendant.

Q. May my children be included for protection in an Order of Protection or an Injunction Against Harassment?

A. A Judicial Officer may order a defendant not to have contact with a child if there is a reasonable belief that harm may result or the child was involved in acts of domestic violence. The Judicial Officer may include any of your children if the defendant has no legal relationship with them.

Q. Can the defendant have parenting time with the children if the order says stay away from the house?

A. If the children are not included in the order, the defendant can still see children by making arrangements through alternative means as directed by the Court, such as through a NEUTRAL third party, a friend or relative. Superior Court has the final say as to how and when parenting time is to occur when there is an open case.

Q. May others be included for protection in an order?

A. A Judicial Officer may order a defendant not to have contact with other persons (such as relatives, friends or a babysitter). Depending on the circumstances, the court may require these other persons to get their own protection order.

Q. What if I can't afford to pay for fees?

A. There is NO fee for filing a petition for an Order of Protection or an Injunction Against Harassment. NOTE: There is also no fee for service for an Order of Protection or an Injunction Against Harassment arising from a dating relationship. If you cannot pay the

service fee for the Injunction Against Harassment, you may request an extension or a waiver of this fee. A separate form is required to file for these requests.

Q. What happens after the order is served?

A. An Order of Protection/Injunction Against Harassment is effective for one year after the defendant receives it from a process server or law enforcement officer. A defendant is entitled to a hearing on any Order of Protection/Injunction Against Harassment issued by the Court. If a hearing is requested, you will be notified of the court date. Your failure to appear at the court date may result in a dismissal of the Order of Protection/Injunction Against Harassment. If the defendant violates any part of the Order of Protection/Injunction Against Harassment after it has been served, you should call the local police department or county sheriff's office immediately. Violation of a protective order is a criminal act, and the defendant may be arrested.

Q. Will I have to see the defendant?

A. You will only need to see the defendant if a hearing is requested and held.

Q. What happens at a hearing?

A. You will need to present your testimony, any exhibits or other witnesses to show the Judicial Officer why the order should remain in effect. It is your responsibility to present information that justifies the order.

Q. When is the Order in effect and for how long?

A. It is in effect once it is served to the defendant by a private process server, a law enforcement officer, or a constable. An order remains in effect for one year from the date it is served.

Q. Should I tell anyone that the order or injunction is issued?

A. Yes. Security at your place of employment should be given a copy of the order or injunction along with a picture of the defendant. Also, a neighbor should be given a copy. If the children are included, notify the school official.

Q. What if I live in an apartment? Can the manager say that the defendant is the one who stays at the property instead of me?

A. No, however, the order or injunction is only good between the parties. It cannot make a landlord allow you to remain at the property, but the Court can order the defendant out of the residence.

Q. Can the order protect my property even if I am not there?

A. Yes. A protective order may prevent the defendant from coming on or near certain property. If the defendant appears on or near the property, anyone, like a relative or apartment manager or security, can call the police to report the violation. Remember, the protective order is a piece of paper. You must take steps for your safety and the security of your property.