



A Practical Guide to Child Orders of Protection



Clay County Circuit Clerk
and Family Court Services

Overview

- What is a Child Order of Protection?
- How does the law protect against abuse?
- Who can file for protection?
- What is abuse and stalking?
- What is covered in an Order of Protection?
- Steps to apply for an Order of Protection
- Keeping your contact information confidential
- Violation of Order of Protection
- Resources

What is an Child Order of Protection?

- The Missouri Child Protection Orders Act provides a civil process (criminal charges may also apply) to protect a child from certain types of abuse. An order of protection may be issued by a court for “abuse” or “stalking” as defined in the statute.

It is important for you to determine if the child’s situation is appropriate for a Child Order of Protection. See the definitions that follow.

A Protective Order is not appropriate if the child victim is subject to a custody order. Relief must be sought from the court that entered the custody order.

What if the child is already subject of a custody order?

- The court that made the custody determination continues to have jurisdiction over protection of the child.
- Consider contacting the Children's Division if the child is in immediate and present danger.
- Contact a lawyer for legal remedies that may protect the child victim.

How does the law protect against abuse?

A judge may order the abuser to stop abusing, harassing or stalking the child and to stay away from the child. The order is valid in every state until it expires.

- **Ex Parte Order of Protection** – a temporary emergency order (for 15 days or less) issued to protect the child until a court hearing
- **Full Order of Protection** – order entered after the court hears evidence, issued for up to 180 days.

Who can file for protection?

- A parent or guardian of a child (a person under age 17) who is the victim of abuse WHEN the parent or guardian suspects that child abuse is occurring

A protective order may be sought where the child resides, where the abuse allegedly occurred or where the alleged abuser may be served.

What is considered child abuse?

- Physical injury, sexual abuse, or emotional abuse ...
...when inflicted on a child other than by accidental means by an adult member of the household
“Discipline, including spanking, administered in a reasonable manner shall not be construed to be abuse” - RSMO 210.110(1).
- Stalking – purposely and repeatedly engaging in conduct directed at the child that serves no legitimate purpose with intent of harassing the child that would cause a reasonable adult to believe the child would suffer substantial emotional distress.

What help is available?

- The court clerk will provide forms and can explain how to file the necessary forms (but cannot give you legal advice).
- You may ask for appointment of a “Court-Appointed Special Advocate for Children” (CASA)
- You may request that a “Guardian *ad litem*” (GAL) be appointed. This is a lawyer to represent the interests of the child.

(see other Resources at the end of this slideshow).

What is covered in an Order of Protection?

The Order of Protection may address:

- Restraining the abuser from abusing, threatening abuse or molesting or disturbing the peace of the child victim
- Prohibiting entry to the family home of the child victim or contact with the child victim except as specifically authorized by the court

Orders regarding custody and support of a child not appropriate when the child is subject to an existing court order or a pending case

Steps to apply for an Order of Protection

Step One: Fill out an application

(called a “Petition for a Child Order of Protection”).

The Circuit Clerk can provide you with the form. No filing fee is required.

- Describe the episodes of abuse in detail from most recent to furthest back in time
- Be sure to include exact dates if known and state specifically what the abuser did.
- Explain why there is immediate danger now.
- The Circuit Clerk will take your petition to a judge. You must wait for the judge to review your petition. This normally takes 60 – 90 minutes.

Step Two: *Ex Parte* Order of Protection

A judge must find that no prior custody order has been made or is pending and that the child is in immediate and present danger of abuse.

If an *Ex Parte* Order of Protection is granted:

- A guardian ad litem and/or CASA will be appointed to represent the child victim. The Children's Division may also be directed to investigate.
- The *Ex Parte* Order lasts for a period not to exceed 15 days. You will be given a date to return to court for a hearing on a Full Order of Protection.
- The *Ex Parte* Order will be served on the alleged abuser by law enforcement at least 3 days before the hearing.

Step Three: The Hearing

Be on time for the hearing. The hearing may be open or closed at the discretion of the judge.

- Testimony will be taken under oath. A record is made of what witnesses say.
- Be sure to tell the judge about any incidents since the *Ex Parte* Order was entered. You must tell the judge exactly what you want covered in the Full Order.
- The judge will also allow the alleged abuser to testify and ask questions of witnesses.
- Try to remain calm. Direct your testimony only to the judge. Do not argue with other witnesses.

Step Four: The Full Order of Protection

- The judge will hear evidence and decide to “grant” or “deny” the Full Order of Protection.
- If granted, the Full Order of Protection is effective for 180 days and may be renewed two times.
- Keep a copy of the Order handy so it can be shown to law enforcement if necessary. Provide a copy to school, childcare personnel, and other places the child goes regularly.

Will contact information be disclosed?

The current address or place of residence of the child will only be revealed to the Court. The Petitioner may also request that his or her address not be disclosed if the child or other household members would be endangered by such disclosure.

What about child visitation?

- The Court may grant visitation between the child and other family members. The child has a right to contact if the court determines it is appropriate.
- Consider using a child-friendly exchange service, such as SAFE Exchange. This is a free option. Call 816-736-8400 for information.
- If supervised visitation is ordered, consider using a third party such as The Transitions Center. Fees are set on a sliding scale. Call 816-736-8400 for information.

What if the abuser violates the Order?

- An abusive violation of an Order of Protection is a criminal offense. Contact law enforcement immediately.
- An abuser may be arrested and prosecuted for certain crimes.
- A Motion for Civil Contempt may be filed for non-abusive violations (such as not paying support as required by the Order of Protection).

Resources

Please take available brochures

- www.escapeabuse.org Northland resources
- Synergy Services 826-587-4011
- Kansas City area shelters 816-452-8535
- Legal Aid of Western Missouri 816-474-6750
- Clay County CASA program 816-736-8400
- The Transitions Center 816-736-8400
- Clay County Sheriff's Domestic Abuse Response Team (DART) 816-407-3910
- www.circuit7.net/familycourt domestic violence info