

CENTRAL VIRGINIA LEGAL AID SOCIETY, INC.



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Protective Orders – Family Abuse & Domestic Violence

Emergency Protective Order – 72 hours

Preliminary Protective Order – 15 days

Permanent Protective Order – up to two years

ASK FOR ALL THREE!!!

Virginia has three types of protective orders in cases of family abuse and domestic violence. A “protective order” is a civil (non-criminal) legal document issued by a court to protect a victim of violence, threats and abuse. Among other things, a protective order can forbid further acts of violence, threats and abuse, and can order that an abuser have no further contact with a victim, the victim’s family or household members.

Family abuse is any act or threat resulting in injury or reasonable fear of injury done by a family or household member. A “family or household member” includes these people:

- Your spouse or your former spouse.
- Your parents, stepparents, children, stepchildren, brothers, sisters, grandparents, and grandchildren.
- If they live in your home, your father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, or daughter-in-law.
- The other parent of your child.
- Anyone who lives in your home or has lived in your home in the last year as a partner.

Asking for one type of protective order does not mean you are asking for all three. You must separately ask for each of the three protective orders.

A Magistrate may issue only an Emergency Protective Order (EPO). The Magistrate’s Office is open and available to do this 24 hours a day, and may do this with or without assistance from law enforcement. An EPO from a Magistrate ends on the date shown on the order.

If you want to keep a protective order in effect, you must go to the Court Services Unit of the Juvenile and Domestic Relations (J&DR) Court, before the Emergency Protective Order ends, and apply for a Preliminary Protective Order. The Court Services Unit should tell you when to appear in J&DR Court about your request for a protective order. If you don’t apply for a protective order from the Court Services Unit, or don’t appear in J&DR Court at your hearing, no protective order will be in effect.

Authorized by Steve Dickinson, Esq., Executive Director, P.O. Box 12206, Richmond, VA 23241

Some Questions Domestic Violence Victims Have:

Should I take the children? You should make every attempt to take the children with you if you want to get custody of them. This is not kidnapping. Unless there is court-ordered custody, both parents have legal rights to the children and are free to take them. It is easier to get court-ordered custody if the children already are with you.

The children do not want to leave. Should I? It's important to trust your own judgment. Sometimes after being in an abusive relationship for a long time, victims begin to rely on their children to make the decisions. Remember you are the parent. You must make the decisions. Your children may be unhappy for a while, but think of the long term effects of watching domestic violence. Your children will have more problems later because of abuse they witness.

What if I am locked out or am afraid the abuser may be home? How do I get things I left behind? If you can't get into your home to get your personal belongings, you may need to file a "Warrant in Detinue." This is only for property which belongs to you alone. The court will not divide marital property in a Warrant in Detinue. To file, you must bring a complete list of your belongings to the General District Court Clerk's office and pay a filing fee. If you win, the abuser must return your property and repay you the filing fee.

Can I get assistance if I leave?

Money: If you have children under 18 who live with you, you may qualify for money from the Temporary Assistance to Needy Families (TANF) program. TANF is a monthly payment for children who are in a family in financial need. Child support and spousal support are other options. You file for child custody, child support and spousal support with the Court Services unit of your local Juvenile and Domestic Relations Court.

Food: If you have low income, you may qualify for Food Stamps at your local Department of Social Services (DSS). You will get a card which you use to purchase food at participating stores. Your local shelter may be able to assist you also with names and numbers of local food banks.

Shelter: If you need immediate shelter, contact your local Domestic Violence Shelter. If you have some time to plan your leave, you may want to look at public housing or other housing at a reduced rate for low income families. DSS should have a list of public housing in your area.

Will DSS contact the other parent of the children? DSS may refer your case to Division of Child Support Enforcement (DCSE) to contact the other parent about child support. Sometimes, you may not want the other parent contacted. You may not want him to know where you are living or are frightened of his reaction. If you feel that getting support from the abuser would be dangerous, you should tell DCSE. If you can show good cause by evidence of a dangerous situation to you or your children, DCSE won't contact the other parent. This includes protective orders, hospital reports, and convictions of assault & battery against you or your children.

Can I get a legal separation? There is no such thing in Virginia as a legal separation. When you no longer are living with your spouse, you are considered "legally separated."

Can I get a divorce? There are 5 reasons for divorce in Virginia: 1) adultery, with no waiting period, 2) your spouse is convicted of a felony and sent to jail or prison for more than one year, with no waiting period, 3) physical cruelty, after a one year waiting period, 4) desertion, after a one year waiting period, 5) an uncontested divorce after a one year separation, or after a 6 month separation **if** you have no minor children of the marriage and a signed separation agreement.