

**PROTECTION ORDERS-** How do I get one and when do they get into effect?

**ORDERS OF PROTECTION:**

**A.** Orders issued by the Circuit Court to protect victims in Domestic Violence situations.

**B.** To be eligible, the victim must have been in a "Domestic Type Relationship" with the offender, within the definition of the law. The definition includes married people, people related within the 4th degree of consanguinity, people who have lived together, had a child together, or have been in a dating relationship. Parents or advocates may also obtain, or assist in obtaining, Orders of Protection on behalf of others in some circumstances.

**C.** Application/Petition forms to obtain Orders of Protection are available at the Circuit Clerk's Office. The Clerk may assist applicants in filling out the forms.

**D.** There are no costs associated with this order, no filing fees, and no service fees.

**E.** The completed application form is presented to a Circuit Judge for review.

**F.** The victim/applicant may have to answer questions from the Judge before he decides whether or not to issue the order. There must be sufficient grounds to issue the order.

**G.** If the application is approved, the Circuit Judge will issue an Ex Parte (Temporary) Order of Protection. This Order will be delivered to the Sheriff's Office to be served on the offender. The Order has no validity and cannot be enforced until and unless the offender has been served with the Order.

**H.** When the offender is served, the Order will specify a court hearing date and time. The offender may appear to challenge the Order at that time.

**I.** At the time of the hearing, the Judge may make the order permanent (up to 10 years), may modify the provisions of the order, or may drop or terminate the temporary order.

**J.** The order may award temporary custody of children or dependents to the applicant/victim, may order spousal support, may award temporary possession of a residence or personal property, and may prevent the offender from having any contact with the victim, the victim's children, family, or etc.

**K.** Any person who violates any provision of the Order of Protection has committed a crime, specifically a Class A Misdemeanor, the punishment for which is up to a \$1,000 fine and/or up to one (1) year in jail. The Judge issuing the Order can also punish for Contempt of Court.

**L.** Officers may make an arrest without a warrant if there is probable cause to believe the Order of Protection has been violated or broken by the offender.

**M.** Mutual (two-way) Orders of Protection are not permitted, however the parties involved may obtain separate Order of Protection against one another if grounds exist to convince a Judge to grant them.

Victims of Domestic Violence are encouraged to apply for Orders of Protection, because it is a crime to violate them. This gives law enforcement much great authority to enforce the provisions of these orders and results in a new charge being filed. The same cannot be said for violating other kinds of orders.

## **RESTRAINING ORDERS:**

**A.** These are civil court orders generally issued in divorce cases.

**B.** There are filing fees and service fees involved, and the services of an attorney are generally required to obtain a Restraining Order.

**C.** A person who defies the provisions of a Restraining Order has not committed a criminal offense. The remedy for violating a Restraining Order is to petition the court to hold the offender/violator in Contempt of Court, the punishment for which is generally a small civil fine.

Restraining Orders are generally ineffective in Domestic Violence cases because they have no real teeth to them.

## **NO CONTACT ORDERS:**

**A.** Any person taken into custody for a criminal offense resulting from a Domestic Violence incident will generally be issued a standing No Contact Order at the time of his or her release from custody. This order is issued as a condition of bail or condition of release.

**B.** The order remains in effect until lifted or terminated by a Judge, but can generally be valid for no more than two (2) years.

**C.** A person who violates a No Contact Order has not committed a crime; rather he or she has violated the conditions of bail or release and can be taken back into custody by the officer until appearing in person before a Judge. The bail is basically revoked.