

HOW TO ASK FOR AN ORDER OF PROTECTION

NOTE: If there are any words or terms used in these instructions that you do not understand, please look at the Definitions section at the end of the *Petition* or visit Illinois Legal Aid Online at illinoislegalaid.org/lexicon/glossary. For more information about going to court including how to fill out and file forms, call or text Illinois Court Help at 833-411-1121 or go to ilcourthelp.gov.

What is an *Order of Protection*?

- A court order that protects the person who asked for the Order (the Petitioner) from harm by a person named in the Order (the Respondent).

What is the difference between an *Emergency Order of Protection (EOP)* and a *Plenary Order of Protection (OP)*?

- ***Emergency Order of Protection (EOP):***
 - The hearing for an EOP may happen immediately after filing your *Petition*. It takes effect as soon as the judge approves it.
 - Because of the risk of harm, the law does not require Respondent to know about the hearing.
 - It lasts for 14 to 21 days. When the court issues an EOP, it sets another hearing date for a Plenary Order.
 - Ask for an EOP if you want an Order of Protection right now.
 - **NOTE:** Your hearing for the EOP may happen immediately after filing the *Petition*. See “Prepare for the Court Hearing” on page 3.
- ***Plenary Order of Protection (OP):***
 - After filing your *Petition*, a future court date may be set for you to come back and ask for your Order. You will not have an Order of Protection until the date of the hearing.
 - The OP may be issued by a judge after the Respondent has been notified by the sheriff and a hearing with both the Petitioner and the Respondent has taken place.
 - When a Plenary Order is granted, it usually lasts for up to 2 years.
 - Ask for an OP if you want to wait until Respondent gets notice and a copy of your *Petition* before you have a court hearing.

Who can ask the court for an *Order of Protection*?

- People who have been abused by a family or household member, caregiver, current or ex-boyfriend, current or ex-girlfriend, or current or ex-spouse, a person with whom you live or used to live, or someone who is the other parent of your child; OR
- People filing on behalf of any person who has been abused but is unable to file on their own.

If you are not connected to the Respondent in one of the ways listed above, don't use these forms. Different protection laws may apply where there has been:

- Stalking: illinoislegalaid.org/stalkingnocontact
- Sexual Assault: illinoislegalaid.org/civilnocontact

Who else can be protected by my *Order of Protection*?

- Anyone who lives or works in your house;
- Your minor children, even if they don't live with you;
- High risk adults with disabilities; AND
- Your animals.

How much will I have to pay to file an *Order of Protection* and have that Order served (delivered to) the Respondent?

Nothing. Filing an Order of Protection case and service to Respondent is free.

What forms do I need to fill out to seek an *Order of Protection*?

- *Petition for Order of Protection*: gives the court information to decide if you can get an *Order of Protection*.
 - The email address (if you have one) and mailing address you put on the *Petition for Order of Protection* is where important legal documents will be sent to you. You should use an email account that you do not share with anyone else and that you check every day. If you do not check your email every day, you may miss important information, notice of court dates, or documents from other parties.
 - If you do not want Respondent to know your email, you may enter a different email where you can get Court notices.
- *Emergency Order of Protection* (if requesting an EOP): a proposed Emergency Order that will be reviewed by the judge during your court hearing. The judge may make changes to the Order after you present your case. The Order will either be granted or denied.
- *Order of Protection*: a proposed Plenary Order (long-term) that will be reviewed by the judge during your court hearing. The judge may make changes to the Order after you present your case. The Order will either be granted or denied.
- *Summons (Protective Orders)*: A *Summons (Protective Orders)* tells Respondent that you have asked for an *Order of Protection* against them.
- *Letter to the Sheriff*: asks the sheriff to deliver the *Summons* to the Respondent.
- When you file the *Petition*, ask the Clerk if you need to fill out any other forms.

Where can I find the forms I need?

- You can get printed forms from the Circuit Clerk at your local courthouse.
- Online forms can be found at: illinoiscourts.gov/documents-and-forms/approved-forms.

What if I need help filling out my forms?

- If you need help with the writing or filing of the *Petition*, ask the Circuit Clerk for assistance.
- Advocates may be available to assist you. If you want to speak with an advocate, call the Illinois Statewide Domestic Violence Hotline at 877-863-6338.
- An “easy form” application is available online to help you prepare your documents. The program will ask you questions and you will enter your answers. At the end of the program, you will get a completed set of court forms with instructions that you can save and print. This can be found at: illinoislegalaid.org/legal-information/order-protection
- You may also ask someone to assist you in filling out the forms.

What do I do after I fill out my forms?

Step 1: Choose where to file your forms.

- File your forms with the Clerk of the Circuit Court in the county:
 - where you live;
 - where Respondent lives;
 - where the abuse occurred; OR
 - where you are staying to avoid abuse.

Step 2: Choose how to file your forms. There are 2 ways you can file:

- **Electronically file (e-file)** your forms via any computer with internet access. To e-file create an account with an e-filing service provider.
 - Visit efile.illinoiscourts.gov/service-providers.htm to select a service provider. Some service providers are free while others charge a processing fee.
 - For instructions on how to e-file for free with Odyssey eFileIL, see the self-help user guides here: illinoiscourts.gov/self-help/how-to-e-file/
 - If you do not have access to a computer, or if you need help e-filing, take your forms to the Circuit Clerk’s office where you can use a public computer terminal to e-file your forms.
 - You can bring your forms on paper or saved on a flash drive.
 - The terminal will have a scanner and computer that you can use to e-file your forms.

○ File your forms in person or by mail.

- Fill out a *Certification for Exemption from E-Filing* found here: illinoiscourts.gov/documents-and-forms/approved-forms.
- Take the *Certification*, originals, and 1 copy of each of your completed forms to the Circuit Court Clerk’s office. You may also send them by mail.

Step 3: Ask for a court date.

- Ask the Circuit Clerk if you have to schedule a court date or if one will be scheduled automatically.
- You have the option to:
 - request an *Emergency Order of Protection* to be heard shortly after filing; OR
 - request only a date for the Plenary Order of Protection. The Respondent will get a copy of the *Petition* before that date. No Order of Protection will be in place until that court date.

Step 4: If asking for an *Emergency Order of Protection*, attend court hearing.

- Your hearing for an Emergency Order of Protection may happen immediately after filing. See “Prepare for the Court Hearing” below.
- If you are not requesting an *Emergency Order of Protection*, skip to step 5.

Step 5: Ask the Sheriff in the county where Respondent resides to serve the *Summons (Protective Orders)* on the Respondent.

The sheriff will serve Respondent with copies of your forms and notice of the court date without charge.

- Get the name, address, and telephone number of the sheriff for the county or the state where Respondent lives.
 - If Respondent lives in the county you are in, the Circuit Clerk will tell you how to get copies of it to the sheriff.
 - If Respondent does not live in the same county or state where the case was filed call the Sheriff in that county or state to find out:
 - if it is the correct sheriff’s Department for the address where you want Respondent served
 - the address where you should bring or mail your *Summons* and forms; and
 - the number of copies of the *Summons* and forms to bring or mail.
- Bring or mail the following items to the sheriff:
 - *Letter to the Sheriff*,
 - A copy *Summons* stapled to the top of:
 - A copy of the *Petition*. This will need to be a certified copy if the Respondent lives out of county or state.

- A copy of the *Emergency Order* if granted. This will need to be a certified copy if the Respondent lives out of county or state.
- A notice of the court date if your *Emergency Order* was denied;
- A self-addressed and stamped envelope
- The *Affidavit of Service*, which is included in the *Summons*, will be mailed back to you after the Respondent has been served.

Prepare for the Court Hearing

How do I prepare for my court hearing?

Step 1: Decide what you want the Judge to do for you.

- Think about what you will say to the judge if asked to tell your side of the case. If an *Emergency Order of Protection*, tell the judge why you need an Order before the Respondent gets notice of your request.
- Gather and make copies of pictures and documents you want the judge to see such as receipts, text messages, and photos. Bring the original for the judge and one copy for you and Respondent (if present).
- Prepare questions for witnesses. If you want the judge to hear from other people, those people will have to come to court and be witnesses (in most cases, you cannot bring in written statements of witnesses)

Make sure you know how you are to attend your court date.

Your court date could be in person, by phone or by video. If it is by phone or video it is called a "Remote Appearance." Call the Circuit Clerk or visit their website for more information. To find the phone number for your Circuit Clerk, visit illinoiscourts.gov/courts/circuit-court/circuit-court-clerks/

Step 2: Go to your court hearing.

- Bring these items with you to court:
 - Copies of all the documents you filed with the Circuit Clerk; AND
 - Any witnesses and questions you have for them
 - Other evidence you have to show that your story is true, such as receipts, text messages, and photos.
- Get to the courthouse at least 30 minutes early.
- Go to the courtroom number listed on your court form. If your forms do not have a courtroom number look for a list of cases at the courthouse or ask the Circuit Clerk.
- Check in with the courtroom staff and wait for your name and case number to be called.
- When your case is called, walk to the judge and introduce yourself.
- If your court date is by phone or video:
 - Make sure to have the call-in or login information for your court date and make sure your technology is working.

- Follow the instructions on the court notice you received. Call the Circuit Clerk or Circuit Court or visit their websites for specific technology instructions.
 - Follow these recommendations to appear by phone or video: illinoiscourts.gov/self-help/court-by-phone-or-video

The Court Hearing

Must all parties be present in the court hearing?

- **Emergency OP Hearings:** The Petitioner must be present. The Respondent does not need to know about or be at the hearing.
- **Plenary Hearings:** The Petitioner must be present in court to get the Order. The Respondent needs to know about the hearing.
 - If Respondent does not come to court, the judge may grant the Petitioner a *Plenary Order of Protection*.
 - If Respondent comes to court, Respondent may agree to an *Order* or may ask for a hearing.
 - The judge can either hold the hearing immediately, or give you or Respondent more time to try to find a lawyer or gather evidence

What if the sheriff could not deliver the *Summons* to the Respondent before the Plenary hearing?

- The judge may ask if you know a better address where the sheriff can deliver the papers and court notice.
- If you have an *Emergency Order of Protection*, the judge may extend it and give you a court date to return. The sheriff will again try to give notice of the *Order* to Respondent.
- If the sheriff can't find Respondent to deliver the papers, you can ask the judge to allow service by publication in a newspaper.

How do I present my case to the Judge?

- Tell the judge your side of the case and answer questions.
- Use evidence including documents and photos.
 - Give a copy to the judge. Be prepared to explain why the document or photo is important.
- Question witnesses.
 - Tell the judge the name of your witnesses.
 - Ask the witnesses questions you prepared before the hearing.
 - The judge and Respondent, if present, may ask questions of you and your witnesses.

What do I do when Respondent presents their case?

- If present, Respondent will also get to present their case by testifying, giving the judge evidence, and questioning witnesses.
- You will get to see any documents and photos Respondent brings to court. If you do not think the judge should consider them in making a decision about your case, tell the judge why.
- You may ask questions of Respondent and their witnesses. Write down your questions while they are speaking to Respondent or judge.

Will a decision be made at my hearing?

- The judge has to make a decision. The decision is called a court order.
- After the hearing, the judge will either GRANT or DENY your request.
- **Emergency OP Hearings:**
 - **If granted**, An *Emergency Order* will be entered and start as soon as Respondent is notified by law enforcement. You will receive a copy of the *Order*. This *Order* can last up to 21 days. Another court date will be scheduled for a hearing on the *Plenary Order of Protection*.
 - **If denied**, you will not get an *Order of Protection* and the case will be over.
 - If the judge decides there is no emergency, but you may need an Order, they will schedule another court date for a hearing to decide whether you will get a *Plenary Order of Protection*. This means that you do not have an *Order of Protection* yet.
 - If you were not granted an *Emergency Order of Protection* and DO NOT want the Respondent to be served, you can cancel your *Petition*.
- **Plenary OP Hearings:**
 - **If granted**, the *Order* has to be given to Respondent.
 - Ask the Circuit Clerk who will give the *Order* to Respondent. If Respondent does not come to court, Respondent must be served with the *Order*. To serve Respondent, follow the instructions under Step 4 (What do I do after I fill out my forms?) above.
 - Read through the *Order* to make sure nothing is wrong or missing.
 - Always keep a copy of the *Order* with you.
 - Give copies of the *Order* to anyone else who should have it, such as your workplace, child's school, childcare provider, or local police department.
 - If Respondent violates any part of the *Order*, call the police immediately.
 - **If denied**, you will not get an *Order of Protection* and the case will be over.