

RESTRAINING ORDER CHEAT SHEET

WHAT IS A RESTRAINING ORDER?

AKA a Relief From Abuse Order (RFA) or Domestic Violence Order (DVO), is a civil order issued by a judge instructing one person to stay away from/stop abusing/not contact/etc. another person. It is NOT pressing charges. It is not criminal and will not appear on the defendant's permanent record UNLESS the defendant chooses to violate the order.

WHO CAN GET ONE?

In NH: spouses, ex-spouses, persons living together now or in the past (including non-intimate relationships), household members related by blood or marriage to the defendant (not including minor children), current or former intimate partners.

In VT: related by blood or marriage (living together or not), people who currently or ever lived together, current or former dating partners, minors who are dating.

IS THE VICTIM UNDER 18?

In NH: a minor may fill out the petition on their own behalf. A parent may NOT ask for an order on behalf of their child.

In VT: a minor may fill out an order on their behalf but must have an invested adult with them. A parent MAY ask for an order on behalf of their child.

Anyone who is eligible has the right to apply for an order, only a judge can decide whether or not to grant it

HOW TO APPLY FOR AN ORDER IN NH:

After Hours: Go to the local police station and request paperwork for an Emergency DV Petition. The police will act like the court clerk and will serve as a liaison to the judge.

IF GRANTED: This is an **Emergency Order** and ONLY in effect through the next business day. The plaintiff MUST go to court to fill out paperwork for a **Temporary Order** before the Emergency Order expires. Otherwise they will have to wait for a new threatening event before reapplying.

During Court Hours: Visit Lebanon Family Court in Centerra Park, and ask for paperwork for a DV Petition. The clerk will ask that the plaintiff wait in the courthouse in case the judge wants to speak to the plaintiff. An advocate can assist. *Orders are only valid once they've been served to the defendant.*

During COVID: it is preferable to get paperwork online and email it. Paperwork available at court, but needs to be filled out outside. Forms are available online:

https://www.courts.state.nh.us/fdpp/dv_petitions.htm

IF TEMPORARY GRANTED: This is a Temporary Order. It was granted **ex parte**, so it is in effect until a scheduled **hearing** when both parties are present. The plaintiff will receive the date of the final hearing with their granted order. The order is only in effect once it's served. The clerk will fax it to the police department where the plaintiff lives to serve and enforce. The plaintiff may call the police station later to confirm that it has been served. Once served, the defendant has the right to request an expedited hearing, meaning it can be moved up to within 5 days.

NH STALKING Petition: if abuse or harassment has been perpetrated by someone who doesn't meet the relationship criteria for a DVO, they may apply for a Stalking Petition. The process to apply for the order is similar to DV Petition but cannot be done after hours.

HOW TO APPLY FOR AN ORDER IN VT:

After Hours: VT RFA after hours is done remotely. Paperwork is online (see below). When ready, the Plaintiff will call the Court Clerk and dictate their affidavit to the clerk over the phone. The *after-hours* court clerk can be called from a Vermont phone number at **800-540-9990**, or from any phone number at **802-747-0886**. The clerk will read back the paperwork; have the plaintiff swear it is the truth, then relay the application to a judge. Advocates can support the person by phone, or agree to meet in person at their local PD if possible. You may also 3-way call the clerk with the plaintiff, which can be helpful.

IF GRANTED: This is a Temporary Order, and is in effect until the final hearing.

During Court Hours: Get RFA paperwork at the Windsor County Family Court in WRJ. Once completed, the plaintiff is not required to wait for the Judge's ruling.

IF GRANTED: It is a Temporary Order in effect until the final hearing. The order will be faxed to the police to be served to the defendant. *Orders are only valid once they've been served.* All final hearings are held within 10 days at Windsor County on Monday mornings, an advocate is always present.

During COVID: it is preferable to get paperwork online and email it. <https://www.vermontjudiciary.org/family/relief-abuse>. Survivor should connect with WISE advocate to make sure they have all the correct paperwork and email address. Paperwork available at court, but needs to be filled out outside.

VT SEXUAL ASSAULT/STALKING PETITION: if stalking or sexual assault has been perpetrated by someone who does not meet the relationship criteria for an RFA, Sexual Assault/Stalking Orders can only be applied for in Vermont during court hours. Final Hearings are held at the Woodstock Superior Court.

Attorneys are not required for final hearings. The hearings are designed to be **pro se**. Having legal representation is an option and can often help. WISE can sometimes help find representation for final hearings. A WISE advocate can also accompany a victim to a final hearing for support.

DEFINITIONS:

Plaintiff: the person requesting the order

Defendant: the person the order is against

Ex Parte: only one party is present

Pro Se: the parties represent themselves; without attorneys

Hearing: both parties present their case to the judge before a final order.

Temporary Order: granted *ex parte* by a judge, valid only until hearing, granted in court or by email in both NH or VT, and by phone in VT after hours

Emergency Order: granted after hours in NH, in effect until close of the next business day

Final Order: granted in a hearing where both parties are present, usually valid for 1 year

PAPERWORK-What are all the forms?

PETITION for the judge includes 2 parts, the *cover sheet* which indicates the relationships between the two people, what types of relief the plaintiff is requesting, etc., & the *affidavit* in which the plaintiff explains WHY they feel they need this order.

DEFENDANT INFORMATION SHEETS asks for identifying information the police need to serve the order.

PLAINTIFF INFORMATION SHEET is NOT shared with the defendant or others. This information is used by the court to contact the plaintiff in case of the final hearing date/time changes.

SUPPLEMENTAL AFFIRMATION NOTARY is needed for RFA in VT during COVID

The Judge is looking for information that meets the legal standard for abuse

- Attempted and/or actual physical harm
- Placing someone in fear of physical harm, threats and menace
- In VT "Emotional Distress" including need to change residency, job, or daily routines, loss of sleep, seeking counseling, etc.
- Start with recent events, proving the emergency need for protection
- Provide as many specifics as possible. When/where did it happen? Who else was there?
- Past events that reinforce risk of harm and fear.
- Descriptive language "He shoved me against the wall, I fell to the ground and have a bruise on my back and my back has been hurting all day" > "he pushed me"; "He told me 'bitch, I am going to drown you in the bath tub and make it look like a suicide' > "he threatened me".

Useful Language for the Affidavit

"I am here to get this order because, [detailed explanation of most recent events]"

A few other brief examples, with as much specificity as possible to show a pattern of abuse and fear

Impact: "I am very afraid for safety of myself, my children, pets..."

THE DEFENDENT WILL SEE WHAT THE PLAINTIFF WROTE

What if the order is not granted?

The defendant will NOT be notified that an application was submitted.

The plaintiff can request a hearing to reconsider the decision. If a hearing is scheduled, the defendant will be notified of the hearing, and there will not be an order in place.

A **NO TRESPASS ORDER** may be another option. No Trespass Orders are location-specific. They only provide protection at specific properties (home, work, etc.). Paperwork can be found at the court, a police station or online. The plaintiff must arrange to have the order delivered.

DOMESTIC VIOLENCE LAWS

NH (RSA 173-B): Domestic Abuse = causing physical harm

- attempting to cause physical harm
- Placing in *fear* of physical harm through threats or menace
- Sexual Assault
- Attempting to or committing kidnapping/criminal restraint/false imprisonment.
- Attempting to or destroying property.
- Attempting or committing unauthorized entry onto property.

VT (15 VSA): Domestic Abuse = attempting to cause or causing physical harm.

- Placing another in fear of imminent serious physical harm.
- Abuse of children.

VIOLATIONS: a violation is when the defendant has been served with the order and does not comply with any of the requirements.

This includes contact or attempted contact via third parties (family members, friends, co-workers, children, etc.). ONLY the defendant can violate the order. If the plaintiff contacts the defendant, it is NOT a violation. If the defendant responds it IS a violation. In order for police to respond, the plaintiff likely will need to report the violation. It will be helpful to have as many specifics as possible (date, time, location), save notes, messages, etc.

SAFETY PLAN! An emergency order does NOT guarantee a temporary order and a temporary order does not guarantee a final order. Regardless of if the order is granted or not, safety planning is very important to consider how the defendant may react, what happens if they violate the order, or what the impact of an order may be.