

Protection From Abuse

Physical and sexual abuse or the threat of either is against the law. Even if you choose not to bring criminal charges against the abuser, Pennsylvania has a civil law called the "Protection From Abuse Act" (PFA) that can give you and your children protection through the court system.

Who can file for protection?

In order to file for a Protection From Abuse Order:

- You must be an adult household member, or an adult guardian on behalf of a minor child; *and*
- You must have one of the following relationships with the abuser:
 - a. related by marriage (spouse, in-laws, etc.); *or*
 - b. related by bloodline (parent, children, cousins); *or*
 - c. biological parents of a child; *or*
 - d. current or past "intimate" partners. Intimate does not necessarily mean sexual (dating, etc.).

There is no longer a requirement that you live with the abuser currently or in the past.

What is abuse?

The law says that *abuse* is

- causing or trying to cause physical harm, whether or not any weapon is involved;
- rape or sexual assault;
- physical or sexual abuse of minor children;
- putting someone in reasonable fear of immediate and serious physical harm;
- following someone around (*stalking*) or repeatedly committing other acts that cause the person reasonable fear of bodily injury; or

- interfering with a person's freedom of movement.

How can I get protection?

You can file this PFA in the Court of Common Pleas Family Division. Most Family Divisions have a system allowing you to file pro se (on your own), or through your attorney or the local legal services office.

How quickly can I get protection?

If the Judge believes that you need the court's protection, the Judge can issue a temporary protection order **immediately**, without the abuser being present, and schedule a final hearing to be held within 10 business days. If the abuser chooses to attend the final hearing, he/she can consent to the PFA or request a full hearing to have a judge decide the case.

When the court is closed on weekdays, nights, weekends or holidays, an emergency protection from abuse order may be granted by the Magisterial District Judge, a master for emergency relief, or in Philadelphia, a bail commissioner.

There may also be a domestic violence shelter that can help you find safe shelter and provide emotional guidance and support while going through the abuse.

What protection can I get?

The petition simply asks that you describe the abuse incident(s) and the approximate date the abuse took place. Therefore, if the Judge believes you are in danger of further abuse the Judge can order any or all the following:

- order the abuse to stop;
- evict the abuser from the house;
- establish custody, partial custody, and visitation rights;

- order the abuser to pay support, which can include health insurance coverage and rent or mortgage payments. (You must still file a separate support case with the domestic relations office within two weeks.);
- order the abuser to stay away from you, your residence, your place of employment, or your school;
- order the abuser to stop harassing you or your children;
- order the abuser not to stalk you;
- order the abuser to relinquish weapons, ammunition, and any firearms;
- prohibit the abuser from acquiring or possessing any firearms for the duration of the PFA;
- order the abuser to relinquish any fire arm license;
- order the abuser to pay financial losses, including medical and moving expenses, which you suffered as a result of the abuse;
- keep your address confidential, and order school districts, law enforcement agencies, and human services agencies not to disclose information about your whereabouts;
- make other orders that will help stop the abuse.

The judge can issue an order without a hearing if both sides agree.

Once the judge grants your protection order it is automatically placed on the Pennsylvania State Police registry, and it can be enforced anywhere in the state. If you need protection in another state, you can file a certified copy of your protection order with the court and police in that state.

How long can a protection order last?

An emergency order received from the Magisterial District Judge, a master for emergency relief, or in Philadelphia, a bail commissioner only last until the next business day when court is in session again.

The temporary orders last up to 10 business days, within which time the Judge schedules a final hearing. However, if the final hearing cannot be held because of some legitimate reason, the court can continue the temporary order's protection until the rescheduled final hearing.

The final order of protection can last up to 36 months. The Judge can extend it if there is more behavior that puts you or your children at risk.

How is the abuser notified of the protection order?

Both the emergency and temporary PFA hearings are usually held without the abuser being present. However, the temporary order will have the notice to the abuser advising him/her of the date, time and place of the final order. The police or anyone 18 and over can serve the PFA petitions and orders. The server must sign your affidavit of service so that you can bring it to the final hearing to prove the abuser was served.

What happens if the abuser violates the court order?

If the abuser violates the PFA order, call the police to report the violation. You must then file an Indirect Criminal Contempt Complaint and a warrant may be issued for the abuser's arrest. A contempt hearing will be scheduled before a Judge. If the Judge decides that the PFA order was violated, the abuser can be put in jail for up to 6 months and/or fined up to \$1000, or the judge may issue such other order as he/she may deem necessary.

If the abuser is sentenced to jail, make sure the prison knows how to contact you so that they can inform you before the abuser is released.

How much will it cost?

The victim does not have to pay any fees to the court for anything related to the filing, serving, or enforcing of a PFA. Once the case is over, the judge will decide whether the abuser or the county has to pay the expenses.

Do other laws apply to abuse?

Yes. Abuse is a crime. Criminal charges may also be filed against the abuser whether or not you file a Protection From Abuse case.

If you need further assistance, call the police, a local domestic violence shelter, or a Legal Services office.

To find the legal aid office near you, use the legal help finder section of the statewide website at www.PALawHELP.org.

REMEMBER

The law often changes. Each case is different. This pamphlet is meant to give you general information and not to give you specific legal advice.

Please use the information found in this brochure carefully since the law is constantly changing and the information may not accurately reflect any changes in the law that occurred following the creation and publication of the brochure.

To Find Legal Help, visit:



<https://PaLegalAid.net/Find-Legal-Help>



Protection From Abuse

- Protection from Abuse Orders
- Who can file for protection?
- What is abuse?
- How can I get protection?

For more information on this issue and other topics visit:

PALawHelp.org

This public information pamphlet was revised and updated by Neighborhood Legal Services.

Revised 12/22.

