

The protection order process

Idaho courts can assist a victim of domestic violence (DV) through protection orders which restrict or prohibit contact between the victim of abuse and the abuser. Domestic violence includes physical injury, sexual abuse, forced imprisonment or the threat thereof. Idaho Code § 39-6301, *et seq.* The courts can also assist victims of DV, (and victims of other abuse) to obtain a protection order where a person intentionally engages in stalking, per Idaho Code §§ 18-7905 and 18-7906; telephone contact with the intent to terrify, threaten, or intimidate another person and issues any threat to inflict injury or physical harm to him/her or a member of his/her family; or intimidation or harassment based on another person's race, color, religion, ancestry, or national origin. Idaho Code § 18-7907. Stalking means engaging in a course of conduct that seriously alarms, annoys, or harasses the victim, and is such as would cause a reasonable person substantial emotional distress, be in fear of death or physical injury, or be in fear of death or physical injury of a family or household member.

You may obtain a protection order against a family or household member, though that relationship is not required with stalking or telephone harassment(s). A minor child in a dating relationship can also file for a protection order. A parent may obtain a protection order on behalf of their minor child. There is no cost to apply for a protection order.

The protection order can be obtained in one (1) day by applying at the clerk's office at the local courthouse, and giving a sworn statement detailing the abuse. The clerk has

all the forms needed to apply for a protection order. The application may also be obtained through the Court Assistance Office, or online, and then submitted by fax. The victim can file for a protection order in the county where they reside, the county where the abuser resides, or where they are temporarily staying.

If the reviewing judge finds that the abuser has recently threatened the applicant or engaged in domestic violence, stalking, telephone harassment, or harassment due to race, color, religion, ancestry, or national origin, against the applicant, the judge will issue a temporary 14-day protection order. Law enforcement will serve the alleged abuser with the temporary order. A hearing date is automatically set with the issuance of the 14-day order.

At the hearing, if the court finds that the Petitioner is in danger of continued DV, harassment(s), or stalking, the court will extend the order for up to one (1) year. The protection order will be given priority over a pre-existing custody order pursuant to a divorce or custody decree. While each party has the right to legal counsel, attorney representation is not necessary, and no court or service fees are charged to either party.

If the alleged abuser appears with an attorney at the hearing, and the abused victim does not have an attorney, the victim has the legal right to request a continuance to obtain an attorney. When that happens the Judge will automatically extend the existing protection order for up to 14 days to allow the victim to retain their own attorney.

The court's ability to protect

The court has the ability to:

- Restrict or prohibit contact between the victim of abuse and the abuser;
- Provide for temporary custody and visitation of any children involved;
- Award one party the family home and exclude the other party from the home;
- Order the abuser to undergo treatment or counseling; and
- Extend the 14-day protection order for up to one year and renew the one year protection order upon motion and good cause shown.

Tips for victims representing themselves

- Contact your local domestic violence shelter for assistance.
- Apply for your protection order as soon as possible after the violence, stalking, or harassment(s) has occurred.
- Fill out the form for the protection order, giving clear details and dates of the incidents of physical injury, sexual abuse, forced imprisonment, stalking, or harassment.
- Dress appropriately for court.
- Always be respectful and courteous to the Judge. Address the Judge as "Your Honor."
- Bring to the hearing all photographs, medical records, or other documents indicating physical or sexual abuse.
- Bring to the hearing any witnesses to the violence.
- Bring to the hearing the addresses of your work, your children's schools, daycare, or any other place which the abuser needs to be restrained from entering.
- Keep a copy of your protection order with you at all times and give a copy of the

order to your child's school and child care provider.

How Idaho Legal Aid Services can help

Domestic Violence Legal Advice Line

A toll free Domestic Violence Advice Line is available to assist low income victims of domestic violence throughout Idaho. The Domestic Violence Advice Line is staffed Monday through Friday from 9:30 a.m. to 4:00 p.m. Mountain Time by a Legal Aid attorney. The attorney can provide immediate free legal advice with civil problems involving domestic violence. Translation services can be made available for Spanish speaking callers. Areas of legal advice or referrals include, but are not limited to, cases to obtain, modify, or enforce civil protection orders; divorce-related separations; spousal and child support; child custody and/or visitation; administrative matters such as access to benefits; housing and/or landlord-tenant cases; and matters related to employment. Persons should call the Domestic Violence Legal Advice Line if: (1) they are a victim of domestic violence; (2) are low income; (3) have civil legal problems; (4) need information, advice, or representation; and (5) do not already have a lawyer helping them.

Idaho Legal Aid Services

Domestic Violence Legal Advice Line

Intake: (208) 746-7541

Monday-Friday; 9:30 am—4:00 pm MT

Direct Legal Assistance

Through referrals from local domestic violence shelters and the courts, Idaho Legal

Aid Services provides free legal assistance to eligible victims of domestic violence in the protection order process.

Idaho Legal Aid Services website

The Idaho Legal Aid Services website offers legal information for clients, including public entitlements, housing, and domestic violence. Sample forms for those individuals able to represent themselves pro se are also available. Please visit the website at:

www.idaholegalaid.org

1447 S. Tyrell Lane
Boise, ID 83706

1305 Third Street S.
Nampa, ID 83651

212 12th Avenue Road
Nampa, ID 83686

150 S Arthur, #203
Pocatello, ID 83204

610 W. Hubbard, #219
Coeur d'Alene, ID 83814

475 Polk, #4
Twin Falls, ID 83301

482 Constitution Way, #101
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LEGAL SERVICES CORPORATION

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