

ENFORCEMENT

No bond will be set for an individual arrested for a violation of a No Contact or Protection Order until he/she appears before a judge. A violation should be reported to the police as soon as possible. If a person has multiple Protection Orders and No Contact Orders against him/her, he/she must follow the Order with the most restrictive provisions.

RESTRAINING ORDERS

The term Restraining Order broadly refers to a civil order restraining or preventing some action. To obtain a Restraining Order you need to already be involved in an existing law suit or file a Petition/Complaint in addition to your Motion. A Restraining Order is to prevent harm that would in fact occur without the order. It is almost always necessary to go through an attorney to obtain a Restraining Order. With the exception of joint orders in divorce/custody cases, they are not routine.

A judge can only issue a Temporary Restraining Order without notice to the other party to prevent "immediate and irreparable injury, loss, or damage" (I.R.C.P. 65[b]) from occurring before the other party can

be heard in opposition. A Temporary Restraining Order will expire within 14 days unless extended by the court, or the parties agree to extend it for a longer time. Motions for Temporary Restraining Orders are set for hearing as a Motion for a Preliminary Injunction, and a Preliminary Injunction must be applied for or the court will dissolve the Temporary Restraining Order. The opposing party can ask to have the Temporary Restraining Order dissolved or modified and the hearing moved forward. A Restraining Order will be specific and provide details of all acts being restrained.

Some courts issue Joint Temporary Restraining Orders in divorce or custody cases to keep parties from changing important things without both party's agreement or a court order.

❖ Court Assistance Services provides this information as a public service. It is not a substitute for legal advice. The laws and court rules are complex. It is always a good idea to talk to a licensed attorney about your situation before filing any paperwork with the court.

DOMESTIC VIOLENCE PROTECTION ORDERS, CRIMINAL NO CONTACT ORDERS, RESTRAINING ORDERS



Definitions, Descriptions, & Differences

PROTECTION ORDERS

Protection Orders are designed to protect victims of domestic violence. You may petition the courts to obtain an order; the petition is available at the courthouse and is free of charge. To obtain a Protection Order, there must be a domestic relationship between the Petitioner and Respondent. This includes married/previously married couples, couples that have children in common, couples that cohabitate or used to cohabitate, individuals related by blood, marriage, or adoption, and adults in a dating relationship. Also, parents/guardians may file on behalf of a minor child who is in a dating relationship. In addition to establishing that a domestic relationship exists, you must also prove that there is an immediate and present danger of domestic violence, which is defined as physical injury, sexual abuse, or forced imprisonment, or the threat thereof. (I.C. 39-6301 et. seq.)

The first step in getting a Protection Order is to fill out an application and file it with the clerk's office. The clerk will either have you wait to see the Judge for your first court hearing, or set a hearing date for a Temporary Protection Order. The Respondent will not be present at this first hearing. At the hearing you will explain the abuse you have experienced and why you are afraid.

The judge may ask you questions. At the end of the hearing the judge will decide if a Temporary Protection Order should be granted. If granted, there will be another hearing set within 14 days for the Protection Order. The Respondent will have a chance to appear and defend him/herself at this hearing. If you do not attend this second hearing, the Protection Order will be dismissed, and you may be ordered to pay the Respondent's attorney fees.

Protections Orders are civil orders. The judge has authority over both parties and can make temporary orders about custody and visitation issues. Both parties must follow the Protection Order. A violation of the order is a criminal misdemeanor.

When you get a Protection Order, read through all of the provisions to make sure you understand it and that it is correct. If you spot something wrong within the Protection Order, tell the court clerk as soon as possible. A modification of a Protection Order may be filed at any time throughout the term of a valid order and the order can be renewed for up to one year if the renewal is filed before the current order expires. You should always keep a certified copy of the most current Protection Order with you at all times.

Most counties have a program that can assist you in obtaining a Protection

Order. You can obtain local program information at your local courthouse, or online through the Idaho Council on Domestic Violence and Victim Assistance:

<http://www2.state.id.us/crimevictim/directory/IdahoProgramsByCity.cfm> .

NO CONTACT ORDERS

Unlike Protection Orders, an individual cannot petition the courts for a No Contact Order. No Contact Orders are imposed as part of an existing criminal case and are most often issued in criminal domestic violence and stalking cases. Although a victim may not file a petition for a No Contact Order, the victim may request a Modification and/or Termination of the No Contact Order by filing a written request with the clerk in the county of the criminal case. Requests to modify and/or terminate a No Contact Order are available at the courthouse. Once a request is filed, a hearing will be held within 14 days and the court will send notice of the hearing to the victim and the parties in the case. The judge may ask the victim and the other parties questions and, after hearing from everyone, the judge will make a decision. Only a judge can lift a No Contact Order. Violation of a No Contact Order is a punishable as a Misdemeanor by a fine, of up to \$1,000, and up to one year in jail.