

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 for malicious harassment, stalking, or telephone harassment. Idaho Code § 18-7907. Malicious harassment means to intimidate or harass another person, to cause physical injury, damage, destroy, or deface real or personal property or the threat thereof due to a person's race, color, religion, ancestry, or national origin. Stalking means repeated acts of nonconsensual contact that alarms, annoys, or harasses another person, causing emotional distress, fear of death, physical injury, or fear of either, of a family or household member. Telephone harassment is the use of the telephone to annoy, terrify, threaten, intimidate, harass, or offend by lewd or profane language, requests, suggestions or proposals, threats of physical harm, or disturbing the peace by repeated calls.

You may obtain a protection order against a family or household member, though that relationship is not required with stalking or 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 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, malicious harassment, stalking, or telephone harassment 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 DV 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 9:00 a.m. to 3:00 p.m. Pacific 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.

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

**Idaho Legal Aid Services
Domestic Violence Legal Advice Line
1-877-500-2980
Monday-Friday; 9 am—3 pm PT**

1447 S Tyrell Ln
Boise ID 83706
208-345-0106

1104 Blaine Street
Caldwell ID 83605
208-454-2591

610 Hubbard Ave., # 219
Coeur d'Alene ID 83814
208-667-9559

482 Constitution Way, # 101
Idaho Falls ID 83402
208-524-3660

633 Main Street, Suite 103
Lewiston ID 83501
208-743-1556

1305 Third Street
Nampa ID 83651
208-475-5725

150 S Arthur, # 203
Pocatello ID 83204
208-233-079

475 Polk, Suite 4
Twin Falls ID 83301
208-734-7024

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