

Equal Justice Foundation

Protection Orders – The Facts

GETTING A PROTECTION ORDER FOR DOMESTIC ABUSE

- In principle, anyone can get a temporary protection order against an intimate partner at any time, for any reason even, or especially if you have had her arrested for assaulting you.
In practice protection orders are given almost exclusively to women. but the same penalties apply, in principle, to restrained women. However, women will be allowed much greater latitude and given lighter punishments.
- If your female partner, her relatives, doctor, social worker, victim's advocate, etc., accuse you of domestic or emotional abuse, or even the potential for abuse or emotional harm, you will be served with a temporary protection order to stay away from her, her children, and her home.
She may not even live there and still have you barred from entry to your home or apartment.
- **Proof is *not* required and hearsay is admissible when seeking a protection order.** The order is issued *ex parte* (without the other party present).
Preferably, from her standpoint, with no prior warning whatsoever, and no chance for you to defend yourself.
- **Perjury and subornation of perjury are standard practice and the court hearing is perfunctory.**
If a woman has trouble filling out the request form she will be given assistance by victim's advocates, shelter workers, and attorneys. They will tell her what she must say and help to fill out the form for the protection order.
- If the restrained party (you) violate the order either accidentally, deliberately, or even if she stalks you, you will be jailed immediately and held in contempt of court.
Since the order is a civil contempt matter there is no right to a jury trial and judges may order any punishment they wish. Typical sentences include 36 weeks DV classes and 3 to 6 months in jail.

WHAT HAPPENS UNDER AN *EX PARTE* CIVIL PROTECTION ORDER

- Once she gets the protection order you will be escorted from your home by police officers with no prior notice, often in the middle of the night, with little more than the clothes you are wearing, or what you can pack in five minutes.
- In the company of a police officer you may visit your home once after the order is served to collect any "*undisputed*" items you might claim.
Usually such accompanied visits are limited to one hour and the police are there to protect her, not you.
- Typically you will not be able to see or talk to your kids.
The order usually spells out the terms of any visitation or contact rights you have with any children in the relationship, usually none initially even if the children are yours and not hers. You must *scrupulously* obey the terms of the order, i.e., no telephone calls, no visiting at school, no birthday cards or gifts to the kids, **nothing!**
- A hearing is supposed to be held within fourteen days as to whether the temporary order should be made permanent.
It likely **will** be made permanent (*as in the rest of your life*) unless you have a competent and experienced attorney. Even then you have a good chance of losing as the hearing will be brief and perfunctory. Your side of the story won't be heard unless you have a good lawyer, so don't treat this casually.
- If the judge does not grant her a permanent protection order, be sure the temporary order has been removed from the Colorado Bureau of Investigation (CBI) database.
That often requires a separate court order or you can contact the CBI and file a request to have it removed.
You can, and will be arrested if the protection order remains in the CBI database even though the court has lifted the order.
As a safety measure you should have a gun dealer run a check on you after the order is dismissed to be absolutely sure your name has been removed from all databases.
Remember, you are guilty until you prove your innocence.

WHAT YOU MUST DO

- **Stay away!**
If you violate, or she contrives to have you violate the terms of the protection order you will find yourself in jail. A not so funny joke is that cell phones were invented to allow women to report protection order violations.
Believe it!
- **Get a good criminal defense attorney!**
In life, and in America, you get what you pay for. See *dvmen.org* for list of qualified attorneys.
- **Read the laws yourself!**
Do not assume your attorney is going to do everything for you. Do your homework. Look for loop holes or advantages in the wording of the law. Read the statute(s) you are charged under 20+ times if you have to. Men often get lazy, or are in shock, during the time before they have to go to the permanent orders hearing but the sentence you face is for life with little possibility of parole. A permanent order cannot be modified for four years.

For additional information see Domestic Violence Against Men in Colorado at dvmen.org

- **Objective evidence wins court cases.**

Phone records, answering machine tapes, e-mails, pictures, etc., are all basic to winning your freedom. Collect them if you can, identify date and time, and go over your evidence with your attorney. Make sure any evidence you have is admissible and has been discovered to the opposing party prior to your hearing.

- **Get rid of any guns or ammunition you may have.**

From the time the protection order is imposed until it is cleared from all databases it is a violation of **Federal** law 18 U.S.C. § 922(g)(8), a.k.a. the Lautenberg Amendment, to purchase, acquire, or be in possession of firearms, ammunition, or other dangerous weapons, e.g., swords, grenades, explosives, etc. *This is a federal felony with a mandatory minimum of 5 years in prison if convicted.*

Collectors items are held to be in this category as well. *"In possession"* generally means in the same room as, or in close proximity to. If you are visiting a friend and they have a gun collection, you can be held to be in violation and could be sentenced to five years (minimum) in prison.

If you have a gun collection, swords, etc., the Bureau of Alcohol, Firearms, Tobacco, and Explosives (BATFE) approved method of storage is with an attorney, with the police or sheriff, or with an approved firearms dealer. Have a friend or relative collect them for you and remove them to an approved storage location until after you are sure the protection order has been lifted *and* your name removed from the state and federal databases. That will usually require a separate motion to the court or personally carrying a certified copy of the court order of dismissal to a Colorado Bureau of Investigation office.

- **Always carry a copy of the protection order with you to show police if you are stopped.**

The order will have specific terms you must meet and sometimes you can avoid arrest by presenting the officers the explicit terms of the order and showing them you have not violated any of the restrictions.

WHAT YOU MUST NOT DO

- **Do not make any contact with her.** No contact means *"no contact"* of any kind by you.

Even accidental contact in a grocery store or mall can get you arrested. If your kids call you that is a violation of the protection order. If you accidentally hit the autodialer on your cell phone and it dials your home number, that is a violation and you can go to jail. Men have had their cell phones in their pocket and it has dialed home. Jail him! Your computer may get infected with a virus or a worm and send her an email. That is a violation of the protection order and has resulted in arrest. Even being on the same road with her is grounds for your arrest.

- **Do not make any direct or indirect contact** with the kids, her friends, relatives, employer(s), or other associates or third-parties.

That will be more than an inconvenience should you work at or near the same location, and you can expect to lose your job in such circumstances, or go to jail for violating the order.

In many cases you can expect her to attempt to arrange for you to violate the order so she can have you jailed.

They may have been *"your"* friends or associates before but after a protection order is issued any female friends are hers. You will go to jail if you contact them. **Only** your attorney can make any necessary contacts.

If an acquaintance or relative mentions to her that *"Joe said..."* that is indirect contact and will get you arrested as well. Many a mother has gotten their son arrested by contacting the woman with the protection order.

- **Protection orders only work one way. You are restrained.** She can, and will do anything she wants.

If she calls you and you talk to her that is a violation of the protection order and you can be jailed.

If she comes over and tries to crawl in bed with you (this actually happens), whether you cooperate or not, you have violated the protection order.

If she sends you an email or fax you are in violation of the protection order if you make any response at all. However, such communications from her might make good evidence against her if the matter comes to trial or hearing. So save them with date and time of receipt noted.

The most common version of stalking reported to the Equal Justice Foundation is a woman who takes out a protection order against a man and then stalks him with cell phone in hand. When she finds him, she calls the police, who then arrest the man for violating the protection order.

OTHER CONDITIONS

- Violation of a protection order costs the great majority of men we hear from their jobs.

A permanent protection order against you may result in the loss of your job, for example if you use a weapon or explosives in your work. Under DoD Directive 5220.6 you may also lose your security clearance.

- You will almost certainly be left confused with few answers to your questions.

A good attorney will take care of the legal issues in court. But you will probably never get the answers as to why she did the things she did and told the lies she told. **Accept it and forget it!**

Web sites: www.ejfi.org and www.domen.org Email: comments@ejfi.org

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Federal employees can contribute through the Combined Federal Campaign in Colorado, Idaho, Wyoming, and Utah. The EJFF agency number is 18855.