

# Protection Orders

## Types Available

“I need a No-Contact Order” or  
“I need a Restraining Order.”

This is what people often say to the court clerk when requesting an order protecting them from someone who assaulted them. However, these terms can be confusing, because a no-contact order and a restraining order are only two types of orders available. There are sexual assault protection orders, domestic violence protection orders, civil antiharassment protection orders, restraining orders and no-contact orders, in addition to others.

The following is a brief description of the most commonly used different types of court orders, to help you request the protection which best fits your situation. Ask the clerk for a copy of a brochure about court orders if you need more information or contact an advocate or lawyer for help in determining which type of order is most appropriate to your situation.

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### Domestic Violence Protection Orders

A domestic violence protection order is a civil order issued by the court that tells the alleged perpetrator to stay away from the victim, the victim's children, and the place(s) the victim lives or works.

“Domestic Violence” is defined as: Physical harm, bodily injury, assault, including sexual assault, stalking, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members. (RCW 26.50.010(1).)

A domestic violence protection order can:

1. order the respondent not to threaten or hurt you;
2. order the respondent not to enter your residence, workplace or school;

Protection Order Types Brochure 7/07

3. give one parent temporary custody of children;
4. set a schedule for visitation with minor children;
5. order the respondent to leave a shared residence;
6. grant you possession of essential personal effects;
7. grant you use of a vehicle;
8. order the respondent to attend counseling; and
9. order the respondent to pay costs of the case.

To get a domestic violence protection order, the victim must have a domestic relationship with the person who assaulted her or him. This means the victim and the perpetrator must be in a family or household relationship with each other to qualify for this type of order. Qualifying relationships include the following: a person to whom you are married or formerly married, or live with or formerly lived with, have children with, or are related by blood or marriage or that you dated or formerly dated.

To obtain an order, a victim must file paperwork with the court and have a hearing where the alleged perpetrator will have an opportunity to respond to the legal request for a protective order. A parent or guardian may seek a protection order on behalf of a minor victim. If a victim is 16 or older they can seek a protection order without involving their parent or guardian. Generally if the alleged perpetrator does not obey the order, they can be arrested.

### Civil Antiharassment Order

An antiharassment order is a civil protection order that prohibits unlawful harassment. This order typically applies to situations when the persons are not married or related to each other, for example, in disputes between neighbors, and stalking (stranger-stranger) situations.

To get an antiharassment order, a person must show that he or she has been a victim of unlawful harassment. “Unlawful harassment” means a knowing and willful course of conduct directed at

the victim which seriously alarms, annoys, harasses, or is detrimental to the victim, and which also serves no legitimate or lawful purpose. “Course of conduct” means a series of acts over a period of time, however short, all with a similar purpose.

A parent or legal guardian may also petition on behalf of a child under age 18 against an adult whose behavior is detrimental to the child. A parent or legal guardian may also petition on behalf of a child against another child who is under investigation or has been adjudicated of an offense against the child.

A civil antiharassment protection order can:

1. restrain the respondent from making any attempts to contact the petitioner;
2. restrain the respondent from making any attempts to keep the petitioner under surveillance;
3. require the respondent to stay a stated distance from the petitioner's residence and workplace; and
4. restrain a minor respondent from attending the same school as the minor protected under the order.

An antiharassment order may not be issued for any action specifically covered by the Sexual Assault Protection Order Act. However, a victim of sexual assault may still be eligible for such an order if he or she can show conduct other than sexual assault that meets the definition of unlawful harassment.

### No-Contact Order

This type of order does not require you to fill out a petition, because it is part of a criminal action. The court will decide whether to issue this order when it decides if the Respondent is to be released on bail or personal recognizance, or when the respondent is arraigned (formally charged) or being sentenced. This order is intended to protect

you while the criminal case is going on and while the court has jurisdiction over the respondent.

## Restraining Order

A restraining order can be obtained as part of a divorce case, a nonparental custody case, a paternity case, or other family law case. This order is broader than the protection orders, since it can deal with property issues, child support, parenting plans or residential schedules, spousal support, as well as restraints from threats or acts of violence, restraints from contact and temporary custody issues. If you need the relief available in a family law case, you may obtain a restraining order. For more information, you may contact a lawyer or call the CLEAR line 1 (888) 201-1014.

## Sexual Assault Protection Order

A Sexual Assault Protection Order is a civil order issued by the court on behalf of a sexual assault victim.<sup>1</sup> The sexual Assault Protection Order *can*:

1. require the alleged perpetrator to stay away from the victim or place(s) where the victim lives or works;
2. have no further contact with the victim;
3. require an alleged perpetrator under 18 years of age to transfer to a different school.

The Sexual Assault Protection Order *cannot*:

1. give one parent custody of the children;
2. set a schedule for visitation with minor children;
3. order the respondent to leave a shared residence;
4. grant you possession of personal effects or a vehicle;
5. order the respondent to attend counseling;
6. order the respondent to pay costs related to the case; or

7. extend protection to other family or household members.

Any person 16 or older who is a victim of “nonconsensual sexual conduct” or “nonconsensual sexual penetration” – including a single incident – may petition the court to obtain the order. Victims under 16 need a parent or guardian to petition on their behalf. A third party may also file on behalf of a vulnerable adult or any other adult who cannot file due to age, disability, health, or inaccessibility.

To obtain an order, you need to fill out the forms to request a Sexual Assault Protection Order. After the forms are filled out, the judge will decide whether or not to issue an order. In some courts, the judge will ask you questions about your case. An advocate or a lawyer can accompany you to this hearing. If there is an emergency, a temporary order that is good for up to 14 days will be issued.

A full hearing will be set within 14 days and the respondent will need to be given personal notice of that hearing. You may bring a lawyer to this hearing – but you are not required to have one. An advocate can come with you too. At the full hearing, the respondent will have an opportunity to attend and may also bring a lawyer. At the hearing, the parties will be offered the opportunity to provide testimony, offer testimony in oral or written declaration or affidavit form from additional witnesses, or cross examine the other party or their witnesses. The court will decide if the order should be made effective for up to two years. Generally, if the alleged perpetrator does not obey the order, he or she can be arrested.

If you are considering petitioning for a Sexual Assault Protection Order, you should meet with an advocate or a lawyer to discuss the different available remedies and challenges with the various orders. Ask the clerk how to contact an advocate in

your area, or contact WCSAP at 360-754-7583 or [www.wcsap.org](http://www.wcsap.org).

<sup>1</sup> A Sexual Assault Protection Order may also be obtained as part of a criminal case. If a victim reports the sexual assault to law enforcement and the assailant is being prosecuted for a sex offense, a judge may order a Sexual assault Protection Order to keep the assailant away from the victim when he or she is released from custody.

## Vulnerable Adult Protection Order

A Vulnerable Adult Protection Order is a civil order issued under Chapter 74.34 RCW. A vulnerable adult, who has been abandoned, abused, subjected to financial exploitation or neglect can request the order. The Department of Social and Health Services may also obtain an order on behalf of a vulnerable adult.

A Vulnerable Adult Protection Order can:

1. restrain the respondent from committing acts of abandonment, abuse, neglect, or financial exploitation;
2. exclude the respondent from petitioner’s residence;
3. prohibit contact by respondent;
4. prohibit the respondent from knowingly coming within or knowingly remaining within, a specified distance from a specified location;
5. require an accounting by respondent of the disposition of petitioner’s income or other resources;
6. restrain the transfer of property for up to 90 days;
7. require the respondent to pay costs related to the action; and
8. last up to one year.

For more information, contact the Department of Social and Health Services’ Adult Protective Services, the Office of the Attorney General or a private attorney.