

BENTON COUNTY ORDER OF PROTECTION INFORMATION

PLEASE READ ALL INFORMATION IN THIS PACKET VERY CAREFULLY

You can find information and paperwork for an Order of Protection on the Benton County Website at <https://bentoncountyar.gov/prosecuting-attorney/order-of-protection/>.

There are certain qualifications required by law for an Order of Protection and **there is no guarantee an order of protection will be granted (Please see the qualifying factors below)**.

There are no costs to you to file for an Order of Protection *(Costs could be incurred at the judge's discretion if you fail to appear for your court date or decide to dismiss your order at the time of your hearing).

Attached in the sections below you will read the qualifications and you are provided step by step instructions and information for requesting an order of protection if you qualify.

QUALIFYING FOR AN ORDER OF PROTECTION

An Order of Protection is issued by a Circuit Court Judge when a Petitioner (the person filing the petition) has been threatened or harmed by a Respondent (the person being filed against) and is in **immediate and present danger of domestic abuse**.

If you have recently been a victim of domestic abuse and need immediate protection you may qualify for an Order of Protection. **Please see the states definition of Domestic Abuse and qualifying relationships below.**

WHAT DOES DOMESTIC ABUSE MEAN?

- Domestic abuse defined by the State of Arkansas is: Physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault between family or household members. You do not have to actually be physically hurt to be the victim of domestic abuse. If someone makes you afraid that you are going to be hurt or assaulted, that could be considered domestic abuse too. [A.C.A. § 9-15-103\(3\) \(A\)](#)
- Domestic abuse is also defined as any sexual conduct between family or household members (whether minors or adults) that constitutes a crime in the State of Arkansas. [A.C.A. § 9-15-103\(3\) \(B\)](#)

WHO CAN GET AN ORDER OF PROTECTION?

It is against the law to abuse someone who is a family member or who lives or used to live in the same house. The State of Arkansas defines a household or family member as:

- Husband or wife (present or former)
- Boyfriend or girlfriend
- Parent and Child
- People related by blood
- Reside together or cohabitate (currently or formerly)
- People who have a child or children together
- Current or prior dating relationship

*A family or household member may petition on behalf of another family or household member who is a minor or who has been adjudicated by a judge as incompetent (this does not include Power of Attorneys).

*You cannot file an Order of Protection petition against a minor.

STEP 1: GETTING STARTED

We will now go through how the process works and what you will need to do to get help from the courts.

- You are the Petitioner (person asking for protection) because you are petitioning--or asking--the court to protect you from harm. The person you need protection from is called the Respondent (alleged abuser).
- Please carefully read the forms in this packet and make sure the information you provide is correct. **Change any incorrect information before filing these forms.**

STEP 2: WHERE DO I GO?

You may go to the county courthouse where you live, where the respondent lives, or where the abuse happened to file your petition for an order of protection. If you are in a shelter, you can go to the courthouse in the county where the shelter is.

- You can find the paperwork with full instructions on our website which is listed above along with the petition/affidavit packet. There are instructions listed for you to contact our office and speak to an Advocate before filing your paperwork. You can also contact our office and an Advocate will discuss your options with you and aid you with the paperwork.
- After filling out the paperwork and speaking to an Advocate, your paperwork will be sent to the Circuit Clerk's Office located in the Benton County Courthouse for filing. If you are filing your paperwork on your own you will need to go to the Circuit Clerk's Office in person to file it.
- There is no charge to file the petition.

*You do not have to put your address on the petition if **you do not want the Respondent to know your address**. Where it asks for your address or contact information you can write "Withheld" in the space provided. The court will still need you to provide your mailing address and contact information to them.

STEP 3: WHAT ARE THE JUDGES OPTIONS?

After you give your completed petition & affidavit to the clerk to file, the clerk will send the petition & affidavit to the Judge who will review it. *Be aware that if you have any previous (open or closed) civil or domestic cases with Benton County, the Order of Protection paperwork will most likely go before the same Judge. It may take 2-3 hours or more before the Judge sends their decision back to the clerk. (See the Judges options below)

➤ **Option #1: Ex-Parte Temporary Order of Protection**

- **IF** the judge decides you have presented enough information in your petition & affidavit and they feel you qualify based on the qualifications listed above, they may grant you a **Temporary Order of Protection** (Also called an Ex-Parte Order).
- This temporary order means NO CONTACT is allowed. The judge signs an order stating the Respondent is to have no contact, directly or indirectly with the Petitioner and any other protected parties listed and states the Respondent is excluded from going to certain places.
- Included in the order will be a court date set within (30) days for the purpose of a hearing to request a final order of protection; this is also the expiration date of the temporary order. **Both Petitioner and Respondent will be REQUIRED to attend the hearing.**
- At the hearing you may be required to present testimony and evidence to the judge to prove why you are in need of a Final Order of Protection. The Respondent will also be given the opportunity to speak. The Judge would then decide if a Final Order of Protection is to be granted or not. *An attorney is not required but is recommended if possible. There are options for free representation listed under Helpful Numbers below.
 - A final order or protection can be granted anywhere from a minimum of 90 days to the maximum of 10 years.
 - If your abuser violates the temporary order of protection by coming to your house, work or any other address that is listed in the order, call the police and tell them you have an order of protection in effect. The police can arrest your abuser for violating the order of protection.

*The police cannot arrest your abuser for violating an order of protection until it has been served on them.

➤ **Option #2: Order to Appear for Hearing**

- **IF** the judge decides that you did not provide enough information in your petition & affidavit and they feel you do not qualify based on the qualifications listed above, an Order of Protection **MAY NOT** be granted. If this happens the Judge may grant an **Order to Appear** with a court hearing date for both the Petitioner and Respondent to appear and to give you the opportunity to explain to the judge in person why you need this order.
- An Order to Appear hearing date is set within (30) days. At that time, you may be required to present testimony and evidence to the judge to prove why you are in need of an Order of Protection. The Respondent will also be given the opportunity to speak. The Judge would then decide if a Final Order of Protection is to be granted or not. *An attorney is not required but is recommended if possible. There are some options for free representation. (Please see contact information on the last page)
- With an Order to Appear **there is no protection order** for law enforcement to enforce, it only means there is a court date that both Petitioner and Respondent are required to attend. If you receive an Order to Appear please take the proper safety procedures if necessary.

➤ **Option #3: Dismissal**

- **IF** the petition and affidavit you submitted does not provide information to support an order of protection or if the information provided does not qualify for an order of protection, the judge could issue a **Dismissal** of the case. If this happens there would be no court dates and the case would be closed with no further orders issued.

Step 4: RECEIVING YOUR PAPERWORK AND ORDERS

After the Judge makes a determination regarding your petition & affidavit, the Circuit Clerks Office will complete the appropriate paperwork. You can call the **Circuit Clerks Office directly at (479)271-1015** to check on your packet and see when it is ready for you to pick up. It is your responsibility to pick this up as soon as possible.

- The Court date will be printed on the order.
- Once the order is issued no changes can be made until your hearing date.
- If you do not attend the hearing date, the petition can be dismissed and you could be charged court costs and filing fees. You may also run the risk of the Judge issuing a Body Attachment Warrant which can require time spent in the county jail.
- If the judge does grant you an Ex-Parte Temporary Order of Protection, make several copies of the signed order. If the order includes your children, take copies of the order to their school or daycare. If you are employed, provide a copy to your boss or security at your workplace. Keep a copy of the order of protection with you at all times. If you call the police because your abuser is violating the order, the police will ask to see the order.

STEP 5: SERVICE OF THE ORDER

The Circuit Clerk's Office will fax a service packet to the Benton County Sheriff's Office to have the Respondent served with the order.

- The respondent must be served for the order to be in effect.
- The respondent will be served with a copy of the order that was signed by the judge as well as a copy of the petition & affidavit you filled out to request the order of protection. This is whether you received the order of protection or the order to appear. Take appropriate safety measures if you are concerned for your safety.
- You may call the **Benton County Sheriff's Office Civil Process Dept. at 479-271-1010** to ask if your protective order has been served or to provide additional information for service.

STEP 6: PREPARING FOR YOUR HEARING

Whether you get an Order of Protection or an Order to Appear, **both Petitioner and Respondent will be required to show up for the hearing date.** Both parties will be given a chance to tell their sides and the judge will use the petition & Affidavit along with the testimony and evidence presented to decide whether a long-term order of protection is appropriate or not.

When the judge has heard both sides, he or she will make a decision on whether to extend the order of protection or not. You will have to tell the judge why you are afraid of the abuser and why you need to keep him or her away from you. You need to be prepared to tell the court everything that has happened and why you need protection. You need to bring any witnesses or documents that support what you will say.

- You do not have to have an attorney to represent you for the hearing but if the Respondent has an attorney you may want to have one as well. Otherwise, you will be representing yourself and you are bound by the same rules of evidence as an attorney.
- On the day of your hearing, please try to arrive approximately 30 minutes prior to the scheduled hearing time. During this time, you will have the opportunity to consult with your attorney and/or court advocate, regarding any questions or concerns you may have.
- Check in with the court staff immediately and inform them of any concerns you have related to your safety in the courthouse. You may request to wait in a separate area from the Respondent if you are uncomfortable or scared.
- Dress appropriately/nicely to show respect for the judge and the court. This means- no shorts, tank tops, revealing clothing or ball caps.
- Please make proper child care arrangements as children are not allowed in the courtroom.
- Bring a friend or support person if you are uncomfortable being alone. An Advocate may be available to accompany you to court for moral support but cannot offer you legal advice.
- Bring witnesses who have seen the violence or heard threats by the abuser.
- Bring any documents that support what you will say which can include police reports, photographs of injuries, hospital or medical records related to the abuse.
- Make notes and bring them if you fear you may leave out important information during your testimony.
- Keep your testimony brief and be specific while describing the acts of violence and threats.
- If you have an attorney, he or she will help prepare you for your testimony.
- If the Respondent has an attorney, they may question you about your testimony (cross examination).
- If the Respondent does not have an attorney, he or she has the right to ask you questions.
- If the Respondent does not appear at the hearing, the court will usually enter the order you ask for.
- Always be respectful to the Judge, address he or she as "Your Honor" or "Judge".
- It is against the law for a Respondent to have access to firearms when there is a Final Order of Protection in effect. Please inform the Judge of any concerns that you have regarding firearms.
- If you have children under age 18 and are asking for child support, bring any available information you have about the Respondent's income (for example, a pay stub or last year's tax returns).
- Most likely, the court will give visitation rights to the Respondent. If you have concerns about your children's safety, you should come to court with an alternate plan for visitation.
- The court typically will not divide property at the hearing, other than the return of personal items.

What Happens If You Fail to Appear At the Court Date?

If you fail to appear at your hearing date there could be consequences to you.

- The judge may dismiss your Order of Protection case and you will no longer have a valid Order of Protection
- The Judge can Issue a Body Attachment for you which means the police would arrest you and you will be held in the County Jail until you are brought back before the judge to explain why you failed to appear.
- You could incur court costs which includes a \$165.00 filing fee and a \$50.00 Sheriff's Office fee.

STEP 7: WHAT HAPPENS AFTER THE HEARING

- If you are granted a Final Order of Protection, you will be given a signed copy after court, you should keep a copy with you at all times. You will also need to provide copies to your children's school or daycare if they are included in the order of protection. You should keep other copies in places where you might need it.
- When granted a Final Order of Protection, be sure to mark the expiration date on your calendar. If you want to extend the order past that date, it will be necessary to submit a request with the court at least 30 days **BEFORE** the expiration date of the final order. All requested changes will be sent to the Judge for review. The court will notify you once a hearing date is set concerning the request.
- The order of protection is not a mutual order. The Petitioner is not prohibited from going to any location or from participating in any certain conduct.
- The order does not become "null" or "void" if you and the abuser reconcile after the final order of protection is issued. Only a court can dismiss the final order of protection once you have filed a petition.
- An order of protection issued in one county is enforceable in all other counties in Arkansas and throughout the U.S.
- The order of protection is different and separate from any orders issued in a divorce, legal separation or criminal case. You can get an order of protection even if you are filing for divorce or decide to press criminal charges against your abuser.

Step 8: WHAT IF RESPONDENT VIOLATES THE ORDER OF PROTECTION

- It is a crime to violate an order of protection. If your abuser does anything that the order of protection says he is not supposed to do, you can call the police. Tell them about the order of protection and have your copy ready to show them.
- The police can arrest the Respondent for violation of the order of protection. If convicted, the abuser can be sent to jail for up to one (1) year and/or fined up to one thousand dollars (\$1000.00).
- You may have to go to court to testify about what the abuser did to violate the order of protection.
- If the Respondent violates an Order of Protection at any time call 911 or your local law enforcement agency ASAP.

*For questions or concerns, please call Victim Assistance with the Benton County Prosecutor's Office at **479-271-1030** Monday - Friday between 8AM - 4:30PM. If you need assistance after hours or weekends, please call **Northwest Arkansas Women's Shelter at 479-246-9999 / 1-800-775-9011** or **Peace At Home Shelter at 1-877-442-9811**.

BE SAFE! PLEASE REMEMBER THAT THE ORDER OF PROTECTION IS HELPFUL, BUT WILL NOT GUARANTEE YOUR SAFETY. PLEASE TAKE ALL NECESSARY PRECAUTIONS. NEVER HESITATE TO CALL 911 IF YOU FEEL LIKE YOU ARE IN DANGER. ALWAYS TRUST YOUR INSTINCTS AND NEVER FACE YOUR ABUSER ALONE. IF YOU DO NOT FEEL SAFE IN YOUR HOME, STAY WITH A FRIEND, FAMILY MEMBER OR AT A LOCAL SHELTER.

HELPFUL PHONE NUMBERS

Please Contact the Victim Advocates at the Benton County Prosecutors Office for more information on community resources available depending on your needs (479) 271-1030 Ext. 2

Legal Assistance:

Arkansas Legal Aid (479) 442-0600
Peace At Home Women's Shelter (479) 442-9811

Judicial System:

Benton County Prosecutors Office (479) 271-1030
Washington County Prosecutors Office (479) 444-1570
Bentonville City Attorney (479) 271-5956
Bentonville District Court (479) 271-3120
Rogers City Attorney (479) 636-0100
Rogers District Court (479) 621-1132
Benton County Div. Three (479) 271-1020
Benton County Div. Four (479) 271-1022
Benton County Div. Five (479) 271-1024
Benton County Div. Six (479) 464-6114

Law Enforcement:

In an Emergency Call 911

Benton County Adult Probation/Parole (479) 464-0735
Benton County Cen-Comm (479) 273-5532
Benton County Sheriff's Office (479) 271-1008
Benton County Jail (to check custody) (479) 271-1011
Benton County Warrants Dept (479) 271-1010
Bella Vista Police Department (479) 855-3771
Springdale Police Department (479) 751-5711
Bentonville Police Department (479) 273-2455
Cave Springs Police Department (479) 248-1414
Decatur Police Department (479) 752-3911
Gentry Police Department (479) 736-8400
Gravette Police Department (479) 787-6949
Little Flock Police Department (479) 936-7911
Lowell Police Department (479) 659-8888
Rogers Police Department (479) 636-4141
Washington County Sheriff's Office (479) 444-5700

Women's Shelter's & Other Assistance:

NWA Women's Shelter (479) 246-9999
Peace At Home Women's Shelter (479) 442-9811
Child Abuse Hotline (800) 482-5964
Children's Advocacy Center (479) 621-0385
NWA Center for Sexual Assault (479) 927-1025
Crisis Line (800) 794-4175 or (479) 927-1020
First Call For Help (United Way) – 211
HARK (help desk for human services)
www.harknwa.com

Department of Human Services:

Benton County (479) 273-9011
Washington County (479) 521-1270

Health Care:

Mercy Health Medical Center (479) 636-0200
NW Medical Center-Bentonville (479) 553-1000
NW Medical Center-Springdale (479) 751-5711
Washington Regional Medical Center (479) 713-1000
Community Clinic for Medical & Dental
Rogers & Siloam Springs (855) 438-2280
New Beginnings Pregnancy Services (479) 549-3322