



A Primer On Personal Protection Orders In Washtenaw County

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What Are They, Exactly?

Personal Protection Orders are orders issued in a civil case, not a criminal case. The survivor must initiate the proceeding by filling a petition for a Personal Protection Order. There is a petition form, which she can fill out, where she fills in blanks and checks boxes. The petitioner also needs to write out the reasons why she needs a Personal Protection Order and attach that statement to her petition form.

The order can prohibit the Respondent from doing many things, including having contact with the Petitioner or the minor children, threatening the Petitioner, sending objects or correspondence to the Petitioner, going to the Petitioner's home, school or workplace, interfering with the Petitioner's work or educational opportunities, having access to school or medical records of the minor children which would disclose the Petitioner's location or residence, stalking the Petitioner, etc.

What Are The Parties Called?

The person seeking the Personal Protection Order is called the petitioner and the person against whom the Personal Protection Order is sought is called the Respondent.

Can A Survivor Get The Order Without The Batterer Knowing?

Many Personal Protection Orders are issued as *ex parte* orders, meaning that the judge decides to sign the order without holding a hearing and without giving the Respondent/assailant notice that a Personal Protection Order has been requested. Once the Personal Protection Order is issued, it is the Petitioner's obligation to serve the Respondent with the Petition and the Personal Protection Order.

Sometimes survivors decide after getting a Personal Protection Order that they don't want to serve it. We understand why that might be the case. Sometimes it is not possible to serve the Respondent because he can't be found. However, if the Personal Protection Order is not served, the Respondent cannot be held arrested for violating the Personal Protection Order if he does something prohibited by the Order. As well, if the Personal Protection Order is not served in a timely fashion on the Respondent, it is possible that it would not be enforceable in another state.

The Respondent has the right and opportunity to file objections to the Personal Protection Order after being served with it and to request a hearing after being served. At the hearing, the Respondent can argue that the Personal Protection Order should be modified or terminated. The judge may decide that there should be a full evidentiary hearing, where the Petitioner and the Respondent and other witnesses may need to testify, in order to decide whether to keep the Personal Protection Order in place.

Can The Petitioner Violate Her Own Personal Protection Order?

The Personal Protection Order is an order against the Respondent, not against the Petitioner. The Petitioner cannot "nullify" the order by "allowing" or "inviting" the Respondent to have contact or to take actions that are prohibited by the order. Some police are confused about this and may refuse to arrest a Respondent for a Personal Protection Order violation if they believe that the Petitioner "invited" the contact. However, most law enforcement officers understand that if they have probable cause to believe a violation occurred, they can and should arrest, without regard to any claim by the Respondent that "he was invited to come over and see the kids," etc. Be aware, though, that it is often difficult for police and the courts to understand why a petitioner might have contact with the respondent after getting a Personal Protection Order. They may not understand that a survivor

sometimes feels, for example, that getting the Personal Protection Order means that she can now safely let her partner see his children.

Is It A Crime To Violate A Personal Protection Order?

No, it is not a crime. It is called “criminal contempt.” However, the police can arrest for a Personal Protection Order violation, a Respondent can be sentenced to jail time for violating a Personal Protection Order, and -- since October 2002 -- the Michigan State Police keep a record of the violation and the Respondent’s fingerprints in their criminal history database. As well, a Respondent who is found by the court to have violated a Personal Protection Order is held in criminal contempt, and that means that the Respondent can be punished with jail time – up to 93 days.

How Does A Petitioner Enforce the Personal Protection Order When There Is No Arrest?

The Petitioner can file something called a motion for order to show cause, which is a simple form available through us, through Family Law Project, and through the court. When that form is completed, the court schedules a date for the show cause hearing and puts that date on the form. The Petitioner then must mail or have a copy of the motion personally served on the Respondent. The Respondent is ordered to appear at the hearing and “show cause” why he should not be held in contempt for violating the order. If the Petitioner does not have an attorney to represent her at this hearing, Michigan law requires the Court to appoint the prosecuting attorney to pursue the contempt. If the Respondent does not have attorney representation, the Court in Washtenaw County will appoint the public defender to represent him.

Are Personal Protection Orders the Same As No Contact Orders?

No. Usually when people refer to “no contact orders,” they mean a no contact condition of a bond or conditional release order, which is what is issued after a defendant has been arrested for a criminal charge. Survivors with whom we work, and even police, can get this confused sometimes. It is important to clarify with them what a survivor means if she says that the Respondent or defendant has a “no contact order.”

A bond form or conditional release order can be similar to a Personal Protection Order, in that it can prohibit the defendant from contacting the survivor and from returning to a home shared with the survivor. However, the bonds and conditional release orders cannot do much of what a Personal Protection Order can do, like prohibit contact with minor children or explicitly prohibit other kinds of stalking behavior, like appearing at the workplace.