

New York State Coalition Against Domestic Violence  
2004 Domestic Violence Handbook

Custody & Visitation

Family Court is the court you must use if you are seeking custody of children you have in common with your abuser. You can petition for custody of the children at the same time you complete your petition for an Order of Protection. You may also request *temporary custody* of your children, so that you may have custody of them while you wait for your court date. It is very important to request temporary custody of your children if you are asking that the abuser be removed from the home and/or you are afraid that your abuser may run off with the children. Without a temporary custody Order, it can be very difficult to bring your abuser and children back to the court in your county. If you do fear that your abuser will take the children away, it is very important to state this in your petition. Unless your abuser has caused serious physical injury to your children, it is likely that he will be granted visitation rights. You may, however, request that someone that you trust supervise this visitation.

Abusers commonly use visitation time as an opportunity to threaten or intimidate their victims. Therefore, whether or not the visitation is supervised, it may be good to have the Order state that visitation pick-ups and drop-offs happen someplace other than your home. A public place, like the lobby of your local police station, is an example of a safe place to exchange the children.

Custody disputes generally take a long time to be resolved. However, the temporary custody Order stays in effect until the final custody Order has been granted. Family Court judges must *consider* domestic violence when making custody decisions, but this does not guarantee that you will get custody of your children.

It is very important that you keep a log to record any visitation your abuser misses. Also, if your abuser makes any threats to you or to your children, report it to Family Court so the judge is aware of the threats.