

New York State Coalition Against Domestic Violence
2009 Domestic Violence Handbook

Enforcing An Order Of Protection

If your abuser violates any part of the order, he will be in *contempt of court* for failure to obey an order of the court. Violation of an order of protection is a crime and a judge should take this very seriously. If your abuser is not charged with a violation of an order of protection or criminal contempt, you can contact a domestic violence advocate at your local program to assist you in having charges brought against him. A person who violates an order of protection can be punished by being sent to jail, paying a fine of several hundred dollars, or both. Although you can get an order of protection in both Criminal and Family Court, the abuser cannot be held accountable by both courts for the same violation-this is called double jeopardy and is unconstitutional. You can contact a domestic violence advocate or attorney to help you determine how to proceed when the abuser violates the order.

If your abuser does something to hurt or threaten you, call the police. Once you have an order of protection, the police have to make an arrest if they believe the order has been violated or an offense has been committed. You should show them the order when they answer your call. If the police do not have enough evidence to make an arrest, you can file a violation petition with the court that issued your order of protection and/or you can file a new complaint in another court if you are eligible. It is a good idea to write down the names and badge numbers of the officers because you may want to follow up with the officers about your case later on.

If you get an order of protection with a condition that your abuser “stay away” from you and your home, it is important to remember that the police may arrest the abuser if he comes to your home, even if he just wanted to come over to talk. Be aware of the potential for serious consequences if you invite your abuser to your home or let him come near you if there is a “stay away” order. Legally, you cannot be charged with violating the court order, since it is against your abuser and not against you. However, women have occasionally been arrested for this, even though the order was not against them and there is no legal basis for the arrest. Additionally, if you invite your abuser to your home or voluntarily get together, you may end up getting hurt, your abuser may get arrested, and/or the police or the judge may not take your case seriously in the future. If you want to get back together with your abuser, it is best to wait until you have both appeared before the judge who issued the order and ask the judge to remove the “stay away” provision of the order. (*See Changing The Order of Protection*).

You must, however, obey any custody or visitation order issued by the court. Therefore, it is important to make sure that the order of protection and the custody/visitation order do not have conflicting requirements. For example, the order of protection may say that your abuser must stay 1,000 feet away from your home, but the visitation order says that the abuser must pick the children up at your house. If such a conflict exists, be sure to point it out to the judge(s) who issued the orders or ask a domestic violence advocate for help.