

## New York State Coalition Against Domestic Violence 2004 Domestic Violence Handbook

### Writing Your Petition

When you ask for an Order of Protection, you have to fill out a *Family Offense Petition*, describing how your abuser harmed you. Your lawyer, if you have one, can prepare the petition. A domestic violence advocate can also work with you to prepare the petition. In some counties, the Probation Department will help you with your petition and bring it before the Family Court judge. If you do not have an advocate or a lawyer and are not receiving assistance from the Probation Department, the clerk of the court can be very helpful in explaining how to fill out your petition and other forms you may have to complete. The clerk is the court's administrator. He or she is in charge of handling the petition for an Order of Protection and scheduling your hearing in court.

In filling out the petition, you should give the facts simply and clearly. You don't need to explain every action that led up to the abuse, but you should state in detail what the abuser did and when and where he did it.

Here's an example...

"On May 1, 1998, at our apartment, John hit me in the face with his closed fist at least three times. The last punch knocked me over and I hit my head on the kitchen counter. My lip was cut and bleeding and I had to go to the emergency room to get six stitches. He said if I told anyone he would kill me."

You don't have to write a lot, but if you have been abused at other times, or if your children have been hurt or threatened, include those facts too. If you have ever called the police to report violence against you or to ask them to protect you, it is important to include that information as well. Be as complete as possible, giving information on all past incidents. Only the information included in the petition for your Temporary Order of Protection will be considered for the final Order of Protection.

Once you have completed the petition, you will have to make it official by signing it in front of a notary public. Someone in the clerk's office will be a notary public. You will need to bring an identification card with a picture on it to show the notary public as proof of who you are.

If you request a Temporary Order of Protection, the Family Court judge is required to make a decision about your petition the same day or the following business day. He or she may ask you questions about the events you describe in the petition. Make as strong a case as you can, but keep your answers brief and stick to the facts. The judge will then decide whether or not to issue you a Temporary Order of Protection. If you receive one, the court will arrange to serve the abuser with the Order and a copy of your petition. When the abuser sees the petition, he will know exactly what you have said was done to you. A Temporary Order of Protection is in effect from the time the abuser is served with the papers until the court makes a final decision regarding your petition.

Whether or not you request or receive a Temporary Order of Protection, a hearing will be scheduled within a few weeks of filing your petition. Both you and your abuser must appear before the judge at that time. If you want to get a final Order of Protection, you must appear at the hearing.

Family Court is open each weekday from 9 a.m. to 5 p.m. In some areas, Family Court may also have additional evening hours. You can call the Family Court in your county to find out if there are evening hours. When Family Court is closed (weekends, evenings and holidays), you may be able to obtain a Family Court Temporary Order of Protection through criminal court; this includes city, town and village justice courts. A Family Court Temporary Order of Protection issued by criminal court only lasts until the next business day. You must then return to Family Court to have the Order extended.