

New York State Coalition Against Domestic Violence
2009 Domestic Violence Handbook

Writing Your Petition

When you ask for an order of protection, you will need 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, as well as when and where the events happened.

Here is an example:

"On March 1, 2007, at our apartment, Chris hit me in the face with a 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 I was bleeding from my forehead. I had to go to the emergency room to get six stitches. Chris threatened to kill me if I told anyone."

You don't have to write a lot. If you have been abused at other times, or if your children have been hurt or threatened, include those facts as well. If you have ever called the police to report violence committed against you by your abuser, or to ask for protection, it is important to include that information as well.

When you write down the incidents, be as complete as possible. 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. Ask at the court clerk's office to be directed to the notary public. You will need to bring identification, such as a driver's license, passport or non driver's ID with your picture on it to the notary public.

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. The judge may ask you questions about the events you described in your petition. Try to make as strong of a case as possible, but keep your answers brief and stick to the facts. The judge will then decide whether or not to issue 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. Upon receiving a copy of your petition, your abuser will know exactly what you wrote about what was done to you. You may want to talk to a domestic violence advocate about safety planning, if you are concerned that your abuser may react negatively towards you after being served your petition. 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 9AM to 5PM, and some courts may have evening hours as well. Contact your local Family Court to find out. If you need an order of protection, and Family Court is closed, you may be able to obtain a Family Court temporary order of protection through Criminal Court. Criminal Court 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