

ENFORCEMENT

No bond will be set for an individual arrested for a violation of a No Contact or Protection Order until the next day when he/she appears before a judge. A violation should be reported to the police as soon as possible. If an individual had multiple Protection Orders/No Contact Orders against him/her, the individual must abide by the Order with the most restrictive provisions.

RESTRAINING ORDERS

The term Restraining Order is very broad. Restraining Orders may be issued in a wide variety of situations and circumstances. Because it is a broad legal term and is more complicated than the Protection Order and No Contact Order process, it is almost always necessary to go through an attorney to obtain a Restraining Order. Generally, a Restraining Order tells an individual *not* to do something they otherwise have a right to do. A Restraining Order is to prevent a harmful situation that is likely to occur without the order. Some courts issue Joint Temporary Restraining Orders in divorce cases to keep parties from changing important things without both spouses' agreement. or a court order. A domestic relationship

between the individuals need not exist. A judge can issue a temporary Restraining Order without notice to the other party, similar to Protection Order cases, only if the plaintiff proves that "immediate and irreparable injury, loss, or damage" (I.R.C.P. 65[b]) will occur to the plaintiff even before the defendant and/or his/her attorney can be heard. A temporary Restraining Order will expire within 14 days unless extended by the court or the parties consent to it being extended for a longer amount of time. The Restraining Order will be specific and provide details of all acts being restrained. Restraining Orders are often referred to as preliminary injunctions and can be the beginning step to obtaining a permanent injunction.

❖ The Court Assistance Office Project provides this information as a public service. It is not a substitute for legal advice. The laws and court rules are complex. It is always advisable to talk to a lawyer about your situation before filing any paperwork with the court.

PROTECTION ORDERS, NO CONTACT ORDERS & RESTRAINING ORDERS



Definitions, Descriptions, & Differences

PROTECTION ORDERS

Protection Orders are designed to protect victims of domestic violence. You may petition the courts to obtain an order; the petition is available at the courthouse and is free of charge. To obtain a Protection Order, there must be a domestic relationship between the Petitioner and Respondent. This includes married/previously married couples, couples that have children in common, couples that cohabit or used to cohabit, individuals related by blood, marriage, or adoption, and adults in a dating relationship. Also, parents may file on behalf of their minor child who is in a dating relationship. In addition to establishing that a domestic relationship exists, you must also prove that there is an immediate and present danger of domestic violence, which is defined as physical injury, sexual abuse, or forced imprisonment or threat thereof.

The first step in getting a Protection Order is to fill out an application and file it with the clerk's office. The clerk will either have you wait to see the Judge for your first court hearing, or set a hearing date for a Temporary Protection Order. The Respondent will not be present at this first hearing. At the hearing you will explain the abuse you have experienced and why you are afraid. The judge may ask you questions.

At the end of the hearing the judge will decide if a Temporary Protection Order should be granted. If granted, there will be another hearing set within 14 days for the 90 day Protection Order. The Respondent will have a chance to appear and defend him/herself at this hearing. If you do not attend this second hearing, the Protection Order will be dismissed, and you may be ordered to pay the Respondent's attorney fees.

Protection Orders are civil orders. The judge has authority over both parties and can make temporary orders about custody and visitation issues. Both parties must follow the Protection Order. A violation of the order is a criminal misdemeanor.

When you get a Protection Order read through all of the provisions to make sure you understand it and that it is correct. If you spot something wrong within the Protection Order, tell the court clerk as soon as possible. A modification of a Protection Order may be filed at any time throughout the term of a valid order and the order can be renewed for up to one year if the renewal is filed before the current order expires. You should always keep a certified copy of the most current Protection Order with you at all times.

Most counties have a program that can assist you in obtaining a Protection

Order. You can obtain local program information at your local courthouse, or online through the Idaho Council on Domestic Violence and Victim Assistance:

<http://www2.state.id.us/crimevictim/directory/IdahoProgramsByCity.cfm> .

NO CONTACT ORDERS

Unlike Protection Orders, an individual cannot petition the courts for a No Contact Order. No Contact Orders are imposed as part of an existing criminal case and are most often issued in criminal domestic violence and stalking cases. Although a victim may not file a petition for a No Contact Order, the victim may request a Modification and/or Termination of the No Contact Order by filing a written request with the clerk in the county of the criminal case. Requests to modify and/or terminate a No Contact Order are available at the courthouse. Once a request is filed, a hearing will be held within 14 days and the courts will send notice of the hearing to the victim and the parties in the case. The judge may ask the victim and the other parties questions and after hearing from everyone, the judge will make a decision. Only a judge can lift a No Contact Order. Violation of a No Contact Order is a Misdemeanor punishable by a fine of up to \$1,000 and/or up to one year in jail.