

# How do I get a Cohabitant Abuse Protective Order?

A protective order is a legal document that is meant to protect a victim of abuse or domestic violence who is in a close relationship with the abuser. It may include orders that prevent your abuser from contacting you, abusing you, or harassing you in any way, and may order the abuser to stay away from your home and/or place of employment. It may also establish short term orders on child custody, support, and/or parent-time.

Although a protective order is a civil order, if the safety provisions (not child custody, support, visitation, etc.) are violated, it may be enforced by the police, which makes its violation a crime.

## Who may file a protective order?

In order to file a protective order for yourself, you must meet the following requirements:

- Be emancipated or at least 16 years old,
- Be a victim of abuse or domestic violence (which includes stalking),
- Have one or more of the following relationships with the abuser:
  - Lives or has lived in the same residence,
  - Have a child or unborn child in common,
  - Be related by blood or marriage.

Any interested party may also file a protective order on behalf of a minor child who has either been abused or who is in danger of immediate abuse. A protective order for a minor child is called a Child Protective Order.

## Where do I file a protective order?

If you are filing a protective order for yourself, you should file it in the District Court of the county where you or the other party resides or in the county where the abuse occurred.

If you are filing a protective order on behalf of a minor child, you must file it in the Juvenile Court in the county where the child resides or where the abuse occurred.

## **What about my children? Are they protected?**

Your children may be protected in one of two ways. If you are a victim of abuse and are filing a protective order for yourself, you may include protection for your children at the same time. If you have not been a victim of abuse yourself, you or any other interested party may file a protective order on behalf of your children. **Note: If you know of or suspect abuse to any child (even if they are not your own), you MUST report the abuse to the Division of Child and Family Services (DCFS).** In addition, a child who has been abused or who is suspected of having been abused, may be appointed an attorney (called a guardian ad litem). This attorney's job is to represent the child, not you or the alleged abuser.

## **What is abuse and domestic violence?**

Domestic violence includes abuse and, in general, is physically harming or threatening to harm another person. It also includes placing another in fear of physical harm. Domestic violence may include one or more of the following and other similar actions:

- Physical or sexual assault, such as hitting, punching, pushing, shoving, choking, kicking, threatening with a weapon, forcible rape or sodomy,
- Intimidation to the point of placing you in fear,
- Electronic communication harassment,
- Holding you against your will, and
- Stalking.

This is an incomplete list. The list of possible reasons for a judge to give a Protective Order is quite long. You should consult with an attorney if you are not sure if you qualify.

## **Do I need more than one incident of domestic violence?**

No. Unlike the civil stalking injunction which does require more than one incident, a protective order may be filed after only one incident of domestic violence (unless the only domestic violence is stalking, in which case you would need to have two or more incidents).

## **How long does a protective order last?**

The answer depends on whether you have filed an adult protective order or a child protective order. The protective parts of the adult protective order will last until further order of the Court but the one who filed may ask that it be dismissed at any time and the one who it is against may ask for a review after two (2) years. The non-protective parts of a protective order (custody, visitation, etc.) may only last for up to 150 days. All provisions of a child protective order only last 150 days unless otherwise ordered by the Court.

## **Is a protective order good statewide?**

In short, yes. A protective order issued in the state of Utah is good and enforceable statewide. In addition, it should be enforceable in all other states as well.

## **If I got an order of protection from another state, is it good in Utah?**

Yes. Local police departments should enforce an order of protection from another state. However, if you plan on staying in Utah, you should go through the process of getting it recognized by Utah.

## **May I get help filling out the paperwork?**

Yes. Utah law requires that court clerks help fill out the paperwork. However, there are other resources as well. In Salt Lake County, the Legal Aid Society of Salt Lake will assist you fill out all the paperwork at the courthouse. Victim advocates may

help with the paperwork, but you will have to fill them out and sign them yourselves. Victim advocates are usually located at the local police department or local shelter. To find an advocate or a shelter, please call the DV Link Line at 1-800-897-LINK (5465) or visit online at <http://www.udvc.org/>. Also, Utah Courts have forms on their Online Court Assistance Program (OCAP) ([www.utcourts.gov/ocap](http://www.utcourts.gov/ocap)). After adding all the needed information, this program will prepare all the paperwork needed to file a protective order.

## **What happens after I fill out & file the paperwork?**

After filling out and filing the paperwork, the judge will decide whether to sign a temporary order to protect you from further abuse or domestic violence. In addition, the person you are filing against must be “served” meaning s/he must get a copy of the paperwork and any temporary orders signed so they are aware of what you are asking. “Service” is generally done by the sheriff’s and/or a constable. The protective order does not go into effect until it is served on the abuser.

## **Do I have to go to a hearing?**

Yes. Utah law requires that a hearing being scheduled within twenty (20) days. You must appear at that hearing to explain to the judge why a protective order is needed. If you do not show up at the hearing, the judge will likely dismiss your case.

## **What will happen at the hearing?**

At the hearing, you will get a chance to tell the judge why you think a protective order is needed. You should be prepared with anything you have to support your side, such as police reports, witnesses, etc. After you are done, the other side will get chance to ask you questions about what you said. Then, the other side will get a chance to tell the judge why a protective order is not proper and present any evidence they have to support their reasons. You will then get to ask them questions about what they said. Then the judge will decide if a protective order is needed and either enter the order or dismiss the case.

## **Do I need an attorney at the hearing?**

No. You are not required to have an attorney at the hearing. However, we would recommend that you do. It is a good idea to have someone who knows the law and the court system to help you at the hearing. You may be able to get help free of charge from the Legal Aid Society of Salt Lake if you are in Salt Lake County, or from Utah Legal Services in all other areas of the state. You should contact them to see if they may help. If they can't help you, you may still hire an attorney to help you.

## **How may I feel Safe?**

If you do not feel safe, you should be prepared should you need to leave quickly. Some suggestions follow:

- Pack a suitcase with toiletries, extra house and car keys, a change of clothing for you and your children. Store all this with a friend or neighbor.
- Have the following items in an easy to find place: medicine, identification, money, checkbook and savings book, birth certificates, Social Security numbers, address book, protective order and other legal papers.
- Know exactly where you will be going: family, friend, police or shelter.

If you don't have time to gather these items and you are going to be hurt, call 911 and get out. Shelters have emergency supplies.

For more detailed information, you may contact a victim advocate who may discuss ways for you to keep yourself safe. In addition, you may get information from the Utah Domestic Violence Council. You may contact them at 801-521-5544 or online at <http://www.udvc.org/>

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**If you are in immediate danger, call 911.**

**The information in this site is not intended as legal advice.**

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