

TPO and Legal Advocacy

Under Georgia Law, "family violence" is the occurrence of any felony, battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household, and does not include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

The superior court of the county where the defendant lives has authority over all lawsuits, petitions, and proceedings under the Family Violence Act, which includes Temporary Protective Orders, commonly referred to as Restraining Orders.

Any person who is not a minor may seek relief under the Family Violence Act by filing, in the Superior Court Clerks Office between the hours of 8 a.m. and 5 p.m., a petition with the superior court alleging one or more acts of family violence. Any person who is not a minor may also seek relief on behalf of a minor by filing such a petition.

NOA (No One Alone) will assist you in filing for a Temporary Protective Order

If a crime is or has been committed, you may call the police in your particular location. You can remove yourself from the household and stay with a relative, friend, or neighbor until you can file the petition during regular business hours, or you may contact various social agencies for temporary lodging until you can file a petition during regular business hours.

Upon filing a verified petition in which the petitioner alleges with specific facts that probable cause exists to establish that family violence has occurred in the past and may occur in the future, the court may order such temporary relief *ex parte* (i.e. with only the petitioner present) as it deems necessary to protect the petitioner or a minor of the household from violence. If the court issues an *ex parte* order, a copy of the order shall be immediately furnished to the petitioner.

Within ten days of the filing of the petition under this article or as soon as practical thereafter, but in no case later than 30 days after the filing of the petition, a hearing (where both petitioner and

defendant may be present heard) will be held at which the petitioner must prove the allegations of the petition by a preponderance of the evidence as in other civil cases. In the event a hearing cannot be scheduled within the county where the case is pending within the 30 day period the same shall be scheduled and heard within any other county of that circuit. If a hearing is not held within 30 days, the petition shall stand dismissed unless the parties otherwise agree.

N.O.A (706) 864-1986 can explain to all victims not represented by counsel the procedures for filling out and filing all forms and pleadings necessary for the presentation of their petition to the court.

There is no cost to file a petition for relief under the Family Violence Act.

The Temporary Protective Order may:

Direct a party to refrain from such acts;

Grant to a spouse possession of the residence or household of the parties and exclude the other spouse from the residence or household;

Require a party to provide suitable alternate housing for a spouse and his or her children;

Award temporary custody of minor children and establish temporary visitation rights;

Order the eviction of a party from the residence or household and order assistance to the victim in returning to it, or order assistance in retrieving personal property of the victim if the respondent's eviction has not been ordered;

Order either party to make payments for the support of a minor child as required by law;

Order either party to make payments for the support of a spouse as required by law;

Provide for possession of personal property of the parties;

Order a party to refrain from harassing or interfering with the other;

Award costs and attorney's fees to either party; and

Order either or all parties to receive appropriate psychiatric or psychological services as a further measure to prevent the recurrence of family violence.

The parties will be provided copies at the conclusion of the hearing, the Superior Court Clerk's Office will retain the original, and the Sheriff's Department will retain a copy of the Temporary Protective Order as long as it remains in effect.

Temporary Protective Orders will remain in effect for no more than 12 months, except upon the motion of a petitioner and notice to the respondent and after a hearing, the court in its discretion may convert a temporary order granted under this Code section to a permanent order.

The Temporary Protective Order is applicable and effective throughout the State of Georgia. It is the duty of every superior court and of every sheriff, every deputy sheriff, and every state, county, or municipal law enforcement officer within this state to enforce and carry out the terms of any valid protective order issued by any court under the provisions of this Code section. The order is also good in all other states.

Once you have obtained a Temporary Protective Order (TPO) under the Family Violence Act, the Sheriff's Department has the responsibility of executing the order by serving a copy of the order upon the respondent (person who is alleged to have committed the act of family violence). The efforts to locate the respondent will begin during the shift on which the order is received, and the Sheriffs Department will continue to attempt to serve the order until they are successful, or the time period for the order expires.

The deputies have the responsibility of notifying the respondent of the existence of the order, and will read the order aloud to the respondent. This assures us that the respondent not only receives the order, but also is aware of its contents.

IF DIRECTED BY THE ORDER, the Sheriffs Department will evict the respondent from the residence where you both are residing. Under the supervision of a deputy sheriff, the respondent is allowed to gather enough personal effects (i.e. clothing, toiletries, etc.) to sustain them until the hearing date which is set in your order. The date is normally within 10 days as prescribed by law.

When the respondent is served at a location other than the place from which he or she is to be evicted, then arrangements will be made for a mutually convenient time for the Sheriff's Department and the respondent to retrieve the needed personal belongings.

IF DIRECTED BY THE ORDER, the deputies may retrieve custody of children or certain belongings from the respondent and then turn them over to you, the petitioner.

Once the order is served upon the respondent, a copy of that order will remain on file in the Sheriff's Department. The existence of your order can be verified 24 hours a day during the time period that your order is in effect (normally 12 months).

If you are having the respondent evicted from the residence, it is important for you to verify with the Sheriff's Department that the eviction has taken place BEFORE you return to the residence. This is for your safety. You may verify this information by contacting the Sheriff's Department at (706) 864-0414.

If the respondent has been evicted from the residence, and later returns before the expiration of the Temporary Protective Order, you should first contact the Lumpkin County Sheriff Office by dialing 911. Inform the operator that you have a Temporary Protective Order, and that you need a deputy. A deputy sheriff will respond to your call.

For more information you may contact a NOA Legal Advocate:

Lumpkin County Legal Advocate 706-864-0414 ext 545

Dawson County Legal Advocate 706-344-3853

NOA Crisis Line: 706-864-1986 (TTY)