

# DISABILITY & AGING RIGHTS



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## ABUSE, NEGLECT AND EXPLOITATION

# Orders of Protection for People with Disabilities

People with disabilities, including older adults who have a physical or mental impairment, have a right to be protected from abuse, neglect and financial exploitation. If you have a disability and you are being abused by someone who is related to you, lives with you, or provides care to you, you may be entitled to an Order of Protection. If you are concerned for a person with disabilities who is being harmed, you may also seek an Order of Protection on his or her behalf.

This fact sheet describes what an Order of Protection is, what the order can do, and how to obtain one if you are a person with disabilities or acting to protect a person with disabilities.

### **What an Order of Protection is and who can ask for one**

A judge may use an Order of Protection to prohibit a person from abusing, neglecting or exploiting the victim.

There are two types of Orders of Protection: civil and criminal. You may seek a civil Order of Protection at any time in the civil courthouse in your area. If the person harming you was arrested or you want criminal charges to be brought against that person, you may also report the crime to the police and go to your local state's attorney and ask for a criminal Order of Protection. The state's attorney should assist you in this process.

This fact sheet will focus on how you can obtain your own Order of Protection in civil court.

### **If you are an adult with a disability**

You may file a petition and ask a judge to enter an Order of Protection for you if you have been abused by a family or household member.

If you cannot file the petition because of your age, health or disability, or if you have no way to get to court, another person can file the petition for you.

### **If you are concerned about an adult with a disability**

You may file a petition and ask a judge to enter an Order of Protection on behalf of a person with a disability if: 1) the person's disability prevents or makes it harder for him or her to seek or obtain protection ("high-risk adult with disabilities"), and 2) the person has been abused, neglected or exploited by a family or household member.

If the person with a disability objects to your obtaining the Order of Protection on his or her behalf, the judge will not enter the Order unless the person with a disability has a legal guardian, and the guardian consents to the Order of Protection. If the person with a disability does not yet have a legal guardian, you may consider pursuing the appointment of a guardian in Probate Court. For more information, please see the fact sheet on Obtaining Guardianship to Consent to Services and Protect Persons with Disabilities in Emergencies.



## Definition of abuse, neglect and exploitation

### Abuse

The definition of abuse is very broad. It includes:

**Physical abuse:** Sexual abuse; confining, restraining, or using physical force against the victim, such as hitting, kicking, biting or pinching; repeatedly and unnecessarily depriving the victim of sleep; putting the victim at imminent risk of harm.

**Harassment:** Any action that is not necessary, that caused the victim distress, and that would cause a reasonable person distress. Some examples of harassment are causing a disturbance at the victim's work or school, threatening to hurt or restrain the victim, or repeatedly calling, following, or watching the victim.

**Intimidation of a dependent:** This occurs if the victim relies on someone else for help because of his or her age, health or disability, and that person makes the victim watch or help physically harm, confine or restrain another person.

**Willful deprivation:** Putting the victim at risk by denying him or her necessary medication, medical care, shelter, services, food, therapeutic devices or other physical assistance.

**Interference with personal liberty:** Doing or threatening to do any of the above actions in order to force the victim to do something that he or she has a right not to do, or to not do something he or she has a right to do.

### Neglect

Neglect occurs when a person does not provide or use reasonable care toward a person with disabilities. Some examples are:

- Failing to reasonably protect a person with disabilities from abuse.
- Repeatedly and carelessly confining a person with disabilities.
- Failing to provide food, shelter, clothes, personal hygiene, medical care or rehabilitation.
- Failing to protect a person with disabilities from certain dangers.

### Exploitation

Exploitation occurs when someone illegally uses a person with a disability or his or her money or other assets. It includes mishandling the person's money or property through fraud, deception or other improper ways.

### Family or household member

The definition of family or household member is also quite broad. It includes the following:

- Children, stepchildren, parents and others related by blood to the victim.
- Spouses, former spouses, family members of the victim's current or former spouse, people the victim is dating or used to date or were engaged to, or a person with whom the victim has a child.
- People who live with or used to live with the victim.
- If you are a person with disabilities, your personal assistants or caregivers are considered household members. A caregiver may be anyone who is responsible for helping you with part or all of your care.

A family or household member is NOT a stranger who has treated you badly, a neighbor, or other people who do not fit in one of the above categories.

### What an Order of Protection can do

An Order of Protection requires the person harming you to take certain actions and/or not take certain actions. Here are some of the things you can ask the judge to do:

- Prohibit further abuse, neglect or exploitation.
- Prohibit the person harming you from entering or staying where you live, either all the time or while the person is taking drugs or alcohol.
- Order the person harming you to stay away from you, your work, your school and certain other places.
- Order the person harming you to participate in counseling.
- Enter orders regarding any children you have with the person harming you, including orders affecting custody, visitation, care and access to records.
- Order the person harming you to provide financial support to you or your child temporarily or pay for any costs you experienced because of the abuse, neglect or exploitation, such as medical expenses or lost wages.
- Order the person harming you to turn over firearms to law enforcement.



## Notifying the abuser and Emergency Orders of Protection

Generally, before entering an Order of Protection, the judge will require you to provide written notice or “service” to your abuser. If you believe that notifying that person may cause him or her to commit further harm, you may ask the judge to enter an **Emergency Order of Protection**. The judge may enter an emergency order without requiring you to provide notice to the person harming you.

Emergency Orders of Protection last between 14 and 21 days. The judge can extend emergency orders for certain reasons. To receive longer protection, you should also ask for a **Plenary Order of Protection**. A plenary order may last for up to two years. Before the judge will enter a plenary order, you will need to notify the abuser using a document called a summons. The court should issue the summons, and a law enforcement officer should give the summons to the abuser.

The court’s clerk should assist you with this process. Please contact the organizations at the end of this fact sheet if you need further help.

## How to obtain an Order of Protection

You will need to complete a Petition for Order of Protection and file the petition with the civil court in your area to start the process. There is no separate petition for seeking Emergency Orders of Protection. If you want the judge to enter an emergency order, you may complete that section on the petition. Make sure to tell the court’s clerk that you are asking for an emergency order.

**NOTE:** If you are seeking an Order of Protection on behalf of a person with disabilities who is already part of a guardianship proceeding in Probate Court, you should file your Order of Protection paperwork in the Probate Court using the same case number as the guardianship proceeding.

The civil courthouse in your area should have forms for you to complete. The forms are lengthy, and it is important that you complete them accurately. Your courthouse may provide a help desk or someone who can help you complete the forms. You should always ask questions if you do not understand something in the forms.

**Alert: you must check the correct boxes next to each requirement you want the judge to order. Failing to check the box may mean the person harming you does not have to follow that requirement.**

Some helpful tips for completing the forms:

- Before you go to the courthouse, write down the names and addresses of the places you want the order to prohibit the person from going, such as your work or school.
- Look for and write down any personal information about the person harming you, including his or her address, work address, birthdate, and Social Security number if you know it.
- Write out a detailed explanation of how the person harmed you, including dates, what happened, and any injuries or harm you experienced.
- Consider bringing a friend or someone you trust with you to help review and complete the forms.

The clerk should not charge you a fee for filing the Order of Protection forms. You may have an attorney help you with the petitions and appear with you in court, or you may complete the forms and appear in court without an attorney.

If you are seeking an Emergency Order of Protection, the judge should hold a hearing as soon as possible on the same day you file the forms. The judge will ask you to explain why you are asking for the Order of Protection and may ask you other questions to gather more information. If the judge enters the emergency order, a hearing to extend the emergency order or enter a plenary order should be scheduled to occur before the emergency order expires.



## What to do if someone violates an Order of Protection

If the person prohibited from harming you is doing something that is not allowed in the Order of Protection, you should call the police. It is a crime to violate certain requirements in the Order of Protection.

If the person has not followed one or more of the requirements in the Order of Protection, you may also go to court and ask the judge to find that person in contempt of court.

The judge may punish the person who has violated the Order of Protection by requiring the person to pay a fine, spend time in prison, pay your attorneys' fees or perform community service, among other things.

NOTE: Only the judge can cancel or change an Order of Protection. If the person who harmed you does something that violates the Order of Protection, and you consent to it, or the person says you consented to it, that person is still in violation of the Order and may face punishment from the court. ■

## For more information:

State of Illinois Domestic Violence Hotline:  
**1-877-863-6338** or **1-877-863-6339** (TTY)

Adult Protective Services (Department on Aging):  
**1-866-800-1409** or **1-888-206-1327** (TTY)

Equip for Equality:  
**1-800-537-2632** or **1-800-610-2779** (TTY)



**Equip for Equality**  
20 North Michigan Avenue  
Suite 300  
Chicago, IL 60602

[www.equipforequality.org](http://www.equipforequality.org)  
1-800-537-2632  
1-800-610-2779 (TTY)

**Illinois Department on Aging**  
One Natural Resources Way  
Suite 100  
Springfield, IL 62702-1271

Senior HelpLine:  
1-800-252-8966  
1-888-206-1327 (TTY)  
[www.illinois.gov/aging](http://www.illinois.gov/aging)

The Illinois Department on Aging does not discriminate in admission to programs or treatment of employment in programs or activities in compliance with appropriate State and Federal statutes. If you feel like you have been discriminated against, call the Senior HelpLine at 1-800-252-8966, 1-888-206-1327 (TTY).