
Sexual Assault, Family Violence & Violent Crime Victim Support Services, Prevention Education, Community & Law Enforcement Support Services and Policy & Legislative Support

How to Obtain an Order of Protection in Suffolk County Family Court

A victim of Domestic Violence May Obtain an Order of Protection in Suffolk County from Criminal Court and Family Court:

Victim advocates are available at no cost to you to assist you in completing a petition for an order of protection. Please refer to **page 6** of this guide for victim support services agencies. There are two types of orders of protection, a Family Court Order of Protection and a Criminal Court Order of Protection:

1. Criminal Court order of protection

- A criminal court order of protection provides protection for alleged victims of crime and/or witnesses to crime where a criminal charge has been filed by police against a defendant.

2. Family Court order of protection

- An alleged victim does not need a police report or a criminal charge to obtain an order of protection in Family Court. This is a civil order that provides protection for the alleged victim from someone who commits a family offense against the alleged victim AND who is someone to whom the alleged victim is/was married, someone to whom the alleged victim is related by blood or marriage, someone with whom the alleged victim has a child in common, or someone with whom the alleged victim has/had an intimate relationship.

An alleged victim of a family offense can go to Family Court in Central Islip or Riverhead to apply for an order of protection. The family offenses are listed on pages 7 and 8. There is no cost to file for an order of protection.

- In Family Court, the person who requests the order of protection is called “the petitioner.” The person against whom the order is requested is called “the respondent.”

What information is needed for Family Court?

- The names, addresses contact information, and dates of birth of the parties.
- A description of the facts.
- The approximate dates the acts were committed.

What additional information may be helpful?

- Police reports or domestic violence incident reports and witnesses, if any.
- Does the respondent possess a weapon? If yes, what type?

It would be helpful to know or have the respondent's:

- Photograph
- Vehicle Make, Type, Year, Plate, Color
- Full Name and Date of Birth
- Employer Name and Address
- Address
- Race, Ethnicity
- Home Phone Number
- Height, Weight, Hair, Eye Color
- Cell Phone and Work Number
- Tattoos/Other Distinguishing Features
- Prior Criminal Convictions

Must I be present at the courthouse or can I appear virtually for my initial hearing

- Under certain circumstances, you may appear virtually with your advocate at the Crime Victim Services Agencies listed on page 6. You may need to appear in person on your return date, or the date you need to see the judge with the respondent, but this may also occur virtually, depending upon the court's arrangement and any hardships of the parties.

If I appear at court, what should I do?

- You (and your advocate) may be directed to stand at the table before the judge at which time the petition will be reviewed. A temporary order of protection will be granted the same day, or in some cases denied. The Court will provide you another date to return to Court, at which time the respondent (person against who a petition is filed) will be present. You must appear on the return date, or your order may be dismissed.

What happens on the return court date?

- On the return date, the respondent will be given the opportunity to oppose the petition or consent to the order of protection.
- If the respondent does not agree to the order of protection, a hearing will be scheduled, and a judge will make a final determination.

How long is a permanent order of protection?

- In Family Court, a final order of protection may last one to five years, depending on the facts of your specific case.

What does "refrain from" mean in an order of protection?

- "Refrain from" means that the respondent must not do certain acts or behaviors

What does "stay away" mean in an order of protection?

- A "stay away" condition may direct the respondent to stay away from the petitioner and/or the petitioner's home, school and/or place of employment. It may order the respondent to stay away from the child/children of one or both parties.

When does the order take effect?

- As soon as the respondent has been served with the order.

When does an order of protection get served on the respondent?

- A deputy from the Sheriff's office will serve the order as soon as possible, day or night. The deputy will attempt to serve the order at the respondent's home or place of business, or any valid address provided by the petitioner. The sheriff will continue to make attempts to serve the order of protection, but if the respondent avoids being served the order cannot be enforced.
- Ask your advocate to assist with signing up to be notified when the respondent is served.

If the judge issues a “stay away” and the respondent and petitioner live in the same place, how soon must the respondent leave?

- As soon as the respondent has been served with the order. They may be permitted to retrieve personal belongings, with the aid of the Sheriff or Police, and may be escorted from the home.

What if there is no “stay away” provision?

- The respondent may continue to be with the petitioner. If the parties have been living together they may continue to do so.

Can I include my pet in my petition for an order of protection?

- Yes. The Family Offense Petition you will complete includes a section to provide names of pets, and type, as well as how the respondent tried to threaten or injure said pet(s).

What if the respondent disobeys the order of protection?

- If the respondent violates the order, the police must be contacted by calling 911. If it is determined by the police that the order was violated, there will be an arrest. If there is an arrest for a violation of the Family Court order of protection, the respondent will be charged with Criminal Contempt, a crime. In addition, the victim may be issued an order of protection by the criminal court judge. The District Attorney’s office can provide copies of the criminal court order of protection. If the respondent violates a Family Court order of protection, the victim may also file a violation petition in Family Court. The violation petition and a summons must be served upon the respondent, or the court may issue a warrant for the respondent’s arrest. The Family Court will hold a hearing to determine whether the respondent disobeyed the order of protection and to determine what action should be taken against the respondent. The Probation Department may be asked to investigate and make a recommendation to the court. The judge may order a period of incarceration for up to 6 months, or a change in the conditions in the order of protection (such as an extension of the order for longer than the initial time period). The respondent may be ordered to pay the petitioner’s attorney fees for the violation case.

Will an order of protection guarantee a person’s safety?

- An order of protection **cannot guarantee safety** and it is important that the victim of domestic violence consistently contact police if the order is violated and have a safety plan. Contact an advocate to assist with safety planning strategies. If the respondent violates (does not obey) the order, here are some things that can happen to help keep victims safer: If there is a determination that the respondent has violated the family court order the respondent can go to jail. The respondent can be charged with a more serious crime such as criminal contempt, and could be prosecuted by the DA. The respondent can have weapons taken away. A more restrictive and/or longer lasting order may be issued.

What should I know about completing the narrative on Page 2 of the petition?

Page 2 of the petition is very important and needs to be completed with as many facts as possible, including the incidents being reported and approximate dates (“on or about dates”) that they occurred. Use descriptive language and include details about injuries or pain you suffered and the approximate dates of the incidents. Include any property that was damaged or destroyed during the incident and/or if your children were present and if there were any weapons used. Use specific language of any threats made by the respondent.

In the petition, you may request an order of protection be granted requiring that the respondent:

- Be removed from the home
- Stay away from you, your home, your school, and/or place of employment
- Stay away from your children, their school, and/or daycare
- Not contact you by phone, mail, email, or any other means
- Refrain from acts/threats of physical violence
- Refrain from such acts of assault, stalking, harassment, menacing, intimidation, criminal mischief and disorderly conduct
- Refrain from the use, consumption, purchase or being under the influence of alcohol/drugs

You may also request as a condition of the order of protection that you be awarded temporary custody of said child(ren) and/or temporary support, including access to health or medical insurance for necessary medical care following the incident that brought about the need for the order of protection.

The judge may provide such relief that is particular to your situation such as a combination of the above.

You may also request that the respondent be directed to:*

- Enroll in a batterers program
- Undergo evaluation for drug and alcohol abuse
- Undergo psychiatric evaluation
- Be advised that this may only be considered during the final disposition of your case.

Referrals for Domestic Violence Victim Support Services

Suffolk County Agencies that provide these services with Hotline contact numbers are:

(Hablamos Español):

Office/Hotline

- Brighter Tomorrows (631) 395-3116/(631) 395-1800
- Crime Victims Center (Centro De Victimas De Crimen) (631) 689-2672/(631) 332-9234
- L.I. Against Domestic Violence (631) 666-7181/(631) 666-8833
- The Retreat (631) 329-4398/(631) 329-2200
- Sepa Mujer (631) 650-2307 (Not 24 Hours)
- VIBES (631) 360-3730/(631) 360-3606
- Suffolk County Police Domestic Violence and Elder Abuse (631) 854-7520/ 911 after hours
- **In Case of Emergency DIAL 911**

If the domestic violence victim is unrepresented:

For legal forms, information, legal research and legal referral resources contact:

- Nassau Suffolk Law Services: (631) 232-2400
- The Law Library Resource Program for the Public (LLRP): (631) 853-6064
- The Crime Victims Center provides free U VISA application assistance for eligible victims of violent crime: (631) 689-2672

If the domestic violence victim has been Raped or Sexually Assaulted within the past 96 hours:

Sexual Assault Forensic Examiner (SAFE), formerly known as Sexual Assault Nurse Examiner (SANE) Centers provide the services of registered nurses who have advanced education in the sensitive treatment and clinical preparation during forensic examination of sexual assault victims. Contact VIBES at (631) 360-3606 and the Crime Victims Center (CVC) (631) 689-2672 for further information on the Emergency Room SAFE Exam Rape Crisis Counselor Accompaniment Programs. In addition, the Crime Victims Center provides Emergency Room SAFE Exam Accompaniment for person incarcerated in Suffolk County facilities.

The following are the four SAFE facilities in Suffolk County:

Long Island Community Hospital

101 Hospital Road
Patchogue, NY 11772

Peconic Bay Medical Center

1300 Roanoke
Avenue Riverhead,
NY 11901

Stony Brook University Medical Center

101 Nicholls Road
Stony Brook, New York 11794

Good Samaritan Hospital Medical Center

1000 Montauk Highway
West Islip NY 11795

If anyone or a combination of the following **family offenses** were committed, you may be eligible for an order of protection (temporary/permanent). The following definitions of the family offenses will assist you in completing Page 2 of your petition. The following are summaries of common scenarios:

Aggravated Harassment 2nd Degree - Section 240.30 – With intent to harass, an actor makes or causes a threat to be made by telephone, mail, electronically, or in any form of communication when the actor knows this will cause fear of harm to the person, their property, or their family/household member or their property; with intent to harass or threaten, an actor makes a telephone call with no purpose of legitimate communication; with intent to harass, annoy, threaten or alarm another, an actor strikes, shoves, kicks or subjects another to physical contact or attempts or threatens to do same because of a belief of perception about another or their family/household member; or an actor commits harassment in the 1st degree and has previously been convicted of harassment in the 1st within the past 10 years.

Assault 2nd Degree- intentionally causing serious physical injury to another person or a third person or intentionally causing physical injury with a deadly weapon or dangerous instrument.

Assault 3rd Degree- intentionally or recklessly causing physical injury to another person.

Attempted Assault- attempting to cause physical injury to another person.

Coercion 2nd Degree- When someone compels another person to engage in activity that they do not wish to engage in out of fear that the first person will cause physical injury, damage property, or make them commit a criminal act.

Criminal Mischief- recklessly and/or intentionally damaging the property of another exceeding the amount of two hundred and fifty dollars or prevents a person from communicating a request for emergency assistance.

Disorderly Conduct- intentionally causing public inconvenience, annoyance or alarm.

Unlawful Dissemination or Publication of Intimate Images - when someone, without consent and with intent to cause harm to the emotional, financial or physical welfare of another person, intentionally disseminates or publishes a still or video image of an exposed intimate part of that person or of the person engaging in sexual conduct, and that person is identifiable from the image and there was a reasonable expectation that the image would remain private.

Forcible Touching- intentionally and for no legitimate purpose, forcibly touching the sexual or other intimate parts of another person.

Grand Larceny 3rd Degree- when a person steals property and when the property exceeds three thousand dollars or is obtained by extortion or instilling fear in the victim.

Grand Larceny 4 Degree- when a person steals property and the property exceeds one thousand dollars or is an official document, secret scientific material, a credit card, a firearm, a vehicle, an item of religious significance, an item obtained through extortion or is any item taken from another person.

Harassment 1st Degree- intentionally and repeatedly harassing another person by following in or about a public place or by engaging in a course of conduct by repeatedly committing acts that place such person in reasonable fear of physical injury.

Harassment 2nd Degree- intentionally striking, shoving, kicking or subjecting another person to physical contact or threatening to do same or follows someone around in a public place.

Identity Theft 1st Degree- when someone uses another person's personal identification information, such as credit card number or social security number, to obtain something of value and that something is worth more than two thousand dollars, or uses another person's personal information to cause financial loss to that person of more than two thousand dollars.

Identity Theft 2nd Degree- when someone uses another person's personal identification information, such as credit card number or social security number, to obtain something of value and that something is worth more than five hundred dollars, or uses another person's personal information to cause financial loss to that person of more than five hundred dollars.

Identity Theft 3rd Degree- when someone uses another person's personal identification information, such as a credit card number or social security number, to obtain something of value.

Menacing 2nd Degree- intentionally placing or attempting to place another person in reasonable fear of physical injury or death by displaying a deadly weapon or dangerous instrument. Repeatedly following a person or engaging in a course of conduct or repeatedly committing acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury or death.

Menacing 3rd Degree- intentionally placing or attempting to place another person in fear of death, imminent serious physical injury or physical injury.

Criminal Obstruction of Breathing or Blood Circulation - when, with intent to impede the normal breathing or circulation of the blood of another person, he or she: applies pressure on the throat or neck of such person; or blocks the nose or mouth of such person.

Reckless Endangerment- Recklessly engaging in conduct which creates a substantial risk of serious physical injury or a grave risk of death to another person.

Sexual Abuse 2 Degree- subjecting another person to sexual contact when such other person is incapable to consent by some factor other than being less than 17 years old.

Sexual Abuse 3 Degree- subjecting another person to sexual contact when such other person is incapable to consent by reason of being less than 17 years old and such other person is more than 14 years old and the defendant was less than 5 years older than such other person.

Sexual Misconduct- engaging in sexual intercourse or oral sexual contact with another person without such person's consent.

Stalking- occurs when anyone repeatedly causes you to fear for your safety. It requires a pattern of repeated acts, for no legitimate purpose, and they do not have to be criminal offenses. It is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business and the respondent was previously clearly informed to cease that conduct.

Strangulation 1st Degree – when someone commits the crime of criminal obstruction of breathing or blood circulation and causes serious physical injury.

Strangulation 2nd Degree - when someone commits the crime of criminal obstruction of breathing or blood circulation and causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment.