

FREQUENTLY ASKED QUESTIONS

about

PROTECTION FROM ABUSE

and

PROTECTION FROM STALKING ORDERS

*A Guide for Victims of
Domestic Violence, Sexual Assault,
and Stalking*



kcsdv.org

facebook.com/kcsdv

2014

FREQUENTLY ASKED QUESTIONS
about
PROTECTION FROM ABUSE
and
PROTECTION FROM STALKING ORDERS

*A Guide for Victims of
Domestic Violence, Sexual Assault, and Stalking*

This booklet contains general information about protection orders in Kansas. This information is not intended to replace the advice and services of an attorney. Due to the wide variety of facts in each case, you are encouraged to seek advice from a Kansas attorney. The editors and staff of the Kansas Coalition Against Sexual and Domestic Violence specifically disclaim any liability, loss, or risk from the use or application of any of the contents of this booklet. The information is based on the laws in effect at the time of publication. Local rules and practices vary from county to county. For advice about your specific legal problem or for more in-depth information, you should contact an attorney.

December 2009

Updated December 2014

Kansas Coalition Against Sexual and Domestic Violence (KCSDV)
All rights reserved.

Kansas Coalition Against Sexual and Domestic Violence
634 SW Harrison
Topeka, KS 66603
785-232-9784 phone (voice and TTY)
785-266-1874 fax
www.kcsdv.org

This grant project is supported by subgrant number 15-VAWA-20 awarded by the Kansas Governor's Grants Program for the Federal S.T.O.P. Violence Against Women Act Grant Program. The opinions, findings and conclusions, or recommendations expressed in this publication, program, or exhibition are those of the author(s) and do not necessarily reflect the views of the Office of the Kansas Governor or the U.S. Department of Justice, Office on Violence Against Women.

Table of Contents:

Introduction.....	4
Protection Order Basics	6
Protection from Abuse Orders	15
Protection from Stalking Orders.....	23
After You Have a Protection Order	29
State Resources	34
Information about Supervised Child Exchange and Visitation Centers	35
Sexual and Domestic Violence Victim Services	35
Legal Authorities.....	38
Glossary.....	39

Introduction

Victims of domestic violence, stalking, and sexual assault often have questions about the protection order process. Seeking protection by getting a court order can be confusing and complicated. If you are a victim or survivor of domestic violence, sexual assault, or stalking, this booklet should help you better understand protection from abuse (PFA) and protection from stalking (PFS) orders. It is also designed to assist you with your decision about whether getting an order is right for you. Throughout this booklet, the words “victim” and “survivor” are used to describe people who have had domestic violence, sexual assault, and/or stalking perpetrated against them.

Throughout this booklet, you will often be encouraged to contact a domestic and sexual violence victim services program for further information or help. Domestic and sexual violence victim services programs serve survivors of sexual assault, domestic violence, and stalking in all 105 counties in Kansas. Advocates in these programs assist victims by providing free and confidential services. Because the protection order process looks different in nearly every court in Kansas, these advocates can often describe the local court process and answer questions about court forms, other paperwork, and safety planning. This booklet should not replace these advocacy services. There is a list of Kansas domestic and sexual violence victim services programs in the back of this booklet. (See page 35) You are encouraged to call a program in your area.

Because getting a protection order means you will have to file a petition and go to a hearing, you may feel the need to have an attorney go with you. Protection orders may also affect other legal cases that you are involved in such as divorce, custody, child protection, or criminal. It may be very important for you to have an attorney helping you. The information in this booklet is not legal advice. It cannot replace the services of an attorney. There is information in the back of this booklet that will help you find an attorney. (See page 34)

You also can find additional information about protection orders by using the “Protection Order Guided Interview.” This interview can be found on the website of the Kansas Coalition Against Sexual and Domestic Violence (KCSDV). The web address is www.kcsdv.org. (785-232-9784)

Computer Safety: A note about using the computer when you are a victim of sexual or domestic violence or stalking: Some abusers or stalkers may have access to the computers either physically or remotely used by those they are abusing or stalking. If you are concerned this may be the case, use a public computer at a library to protect your safety. This booklet refers to websites and other on-line resources. You should not access them unless you believe it is safe to do so.

Protection Order Basics

What is a protection order?

A protection order is an order from a judge telling a person not to have contact with you. You may hear them called a restraining order, a PFA, or a PFS.

What is the purpose of a protection order?

Protection orders are meant to assist with your safety. A protection order can make you safer by keeping the abuser or stalker from:

- contacting you either directly or indirectly
- coming near your home or work
- getting others to contact you with messages from the abuser or stalker
- communicating or attempting to communicate with you in any way

If the abuser or stalker does any of these things, you can call law enforcement who may:

- remove the abuser or stalker
- make a criminal report for prosecution
- arrest the abuser or stalker

What are the types of protection orders in Kansas?

Protection from abuse (PFA) and protection from stalking (PFS) orders are two types of protection orders available to victims in Kansas. A protection from abuse order – also called a PFA order – can provide protection for victims of domestic violence. A protection from stalking order – also called a PFS order – can provide protection for victims of stalking.

There are other types of restraining orders. However, these two types of orders are the focus of this booklet. PFA and PFS orders are designed specifically for victims of domestic violence and stalking. They may be useful for victims of sexual assault in some circumstances.

What is a protection order NOT intended for?

The purpose of getting a protection order should center on your safety. Other reasons such as “annoying” neighbor disputes that do not cause you fear, getting an upper hand in other court cases, or retaliating or getting back at someone, are not appropriate uses of protection orders.

If safety is not your overriding goal, then a protection order is not for you.

What should I think about when deciding if a protection order is right for me?

There are three important questions to ask before deciding to file for a protection order:

- Will a protection order help keep me safe?
- Do I qualify for a protection order?
- How might a protection order affect my safety?

If you can, you should meet with an advocate from a domestic and sexual violence victim services program or an attorney before getting a protection order. If you cannot do so, the information in this booklet and in the on-line “Protection Order Guided Interview” (<http://www.kcsdv.org/resources/brochures/criminal-justice/po-guided-interview.html>) may be helpful to you.

Will a PFA or PFS order help keep me safe?

You are the expert on your safety. A PFA or PFS order may increase your safety if the abuser or stalker follows the order. Some abusers and stalkers obey court orders, but some do not. In addition, because domestic violence and stalking is about control, it is important to remember that getting a protection order may be a step toward independence. You should consider that moving toward independence might increase the stalker or abuser’s threats and violence toward you. Because of that, you

may need to rethink your safety issues and safety plan before getting a protection order. A domestic and sexual violence victim services program advocate can help you consider a plan for your safety. A list of domestic and sexual violence victim services programs in Kansas is included in the back of this booklet. You can also review a safety-planning brochure at www.kcsdv.org.

People often think that a protection order is the best solution. There are times, however, when a protection order does not improve a victim's safety. It is extremely important to consider your own safety issues when deciding whether a protection order is right for you. Some questions you should consider are:

- Do you think a protection order will help make you safer?
- How are protection orders enforced in your area?
- Are you in a very rural area that might delay law enforcement response time?
- Has the abuser or stalker threatened violence if you file for a protection order?
- Have you had a prior protection order against this stalker or abuser?
- If so, was the prior order helpful?
- How did the stalker or abuser respond to a protection order?
- Has the stalker or abuser had prior orders issued against him or her by a different person?
- If so, how did he or she respond?
- Have you talked with someone in your area who had a protection order?
- What was their experience with enforcement?
- Will you call law enforcement if the stalker or abuser violates the order?

Do I qualify for a protection order?

PFA orders and PFS orders have different requirements. To get a PFA order you must meet two requirements:

1. You must be a victim of abuse. Examples of abuse include:
 - someone hurts you physically
 - someone attempts to hurt you physically
 - someone threatens to hurt you physically
 - unwanted sexual touching or intercourse with a child less than sixteen
2. You must have a specific relationship with the abuser. The person who abused you must be an “intimate partner or household member.” An intimate partner or household member can mean any of the following
 - You live together
 - You lived together in the past
 - You have a child together
 - You are dating
 - You have dated in the past

To get a *PFS* order you must meet two requirements.

1. You must be a victim of stalking.
 - Stalking is when someone intentionally makes you feel afraid for your safety by harassing you.
2. There must be two or more acts of stalking. A single act cannot be stalking.
 - Stalking is when someone intentionally makes you feel afraid for your safety by harassing you.

The following chart shows the differences between PFA and PFS orders.

Qualifying for PFA Orders or PFS Orders	
Protection from Abuse (PFA) <ul style="list-style-type: none">• You must be a victim of abuse AND you must have a specific relationship with the abuser	Protection from Stalking (PFS) <ul style="list-style-type: none">• You must be afraid for your safety AND there must be at least two acts that make you feel this way.
Examples of abuse <ul style="list-style-type: none">• A person hurts you physically• A person attempts to hurt you physically• A person threatens to hurt you physically	Examples of stalking <ul style="list-style-type: none">• Two or more intentional harassing actions directed toward you
You and the person who abused you must have one of the relationships below: <ul style="list-style-type: none">• Currently living together• Have lived together in the past• Have a child together• Currently dating• Have dated in the past	<ul style="list-style-type: none">• These acts make you feel afraid for your safety.

I qualify for both a PFA and a PFS order. What type of protection order should I get?

If you meet the requirements for both a PFA and a PFS order, you should consider which order could help you the most. There are differences between what a judge can order in a PFA order and

what a judge can order in a PFS order. The following chart shows these differences.

Protection from Abuse (PFA)	Protection from Stalking (PFS)
<ul style="list-style-type: none">• Prevent any contact by the abuser• Give you access to your home (with some exceptions)• Require the abuser to provide suitable alternate housing• Prevent the abuser from shutting off utilities• Require the abuser to make support payments• Order custody and parenting time• Anything else the judge decides is necessary to keep you safe	<ul style="list-style-type: none">• Prevent any contact by the stalker• Prevent the stalker from coming on or around your home or workplace• Anything else the judge decides is necessary to keep you safe

If you have minor children and want to pursue custody, child support, and/or parenting time through the protection order process, you may want to file for a PFA order. If you have minor children and you do not want to use the protection order process to pursue custody, child support, and/or parenting time, then you may want to file for a PFS.

An advocate at your domestic and sexual violence victim services program or an attorney can help you decide which order could benefit you the most.

How might a protection order restrict or affect me?

The protection order does not restrict you; it restricts the abuser or stalker's behavior. However, a protection order could have effects on you that are often unexpected.

Think about the following questions as you consider whether to get a protection order:

Are you prepared to:

- Go to court and tell your story, even if the abuser or stalker is there?
- Support you and your children financially?
- Move out of your home, if necessary?
- Provide for your own transportation?
- Hire an attorney, if necessary?
- Start divorce proceedings, if necessary?
- Move into a shelter, if necessary?
- Report violations of the order?
- Have others be aware of your situation?

It is important to have a plan for dealing with these issues prior to seeking a protection order. Having a plan will make it more likely the protection order will work for you. In addition, safety is your first concern so thinking about your safety options and having a plan in place if the abuser or stalker becomes more violent are important steps before getting a protection order.

Is there a cost for filing a protection order?

There is no cost to you for filing a protection order with the court.

Will the abuser or stalker be able to see what I write on the petition (paperwork)?

Yes. The abuser or stalker will get a copy of your petition (paperwork).

In the PFA paperwork you can ask that your address and telephone number remain confidential, but when the abuser gets the paperwork, the abuser will be able to see in what county and state the paperwork was filed.

In all PFS cases your address and telephone number should remain confidential. However, like in a PFA, when the stalker gets the paperwork, the stalker will be able to see in what county and state the paperwork was filed.

Remember, PFA and PFS petitions and orders are open records, except perhaps for your address and telephone number. Open record means that information you give at any time in the court process may be made available to the public.

Do I need an attorney to file for a protection order?

No, you do not need an attorney to ask for a PFA or PFS order. You may consider hiring one if an attorney is helping the abuser or stalker. A domestic and sexual violence victim services program in your area may be able to refer you to an attorney. Domestic and sexual violence victim services programs can help you through the process if you do not have an attorney. The staff at the court cannot give you legal advice when you are getting a protection order.

I need help getting protection for my children. What do I do?

You may be able protect minor children by filing a PFA or PFS order on their behalf or by including them on your PFA order. Child support, parenting time, and child custody may be affected by filing a PFA order. Because of these legal issues, it is important to work with an advocate at a domestic and sexual violence victim services program or an attorney if you are considering a PFA or PFS order that involves children.

I need a protection order. What do I do?

Once you decide to get a protection order, you may want to speak with an advocate at a domestic and sexual violence victim services program. They can describe the protection order process in your area. They may also be able to answer questions about court forms, paperwork, and safety planning.

If you need a Protection from Abuse order, read the next section. If you need a Protection from Stalking order, begin reading on page 23.

Protection from Abuse Orders

I spoke with an advocate and want to get a Protection from Abuse order. What are the next steps for getting a PFA order?

There are eight steps for getting a PFA order.

Step 1: Get the necessary forms.

You will need to fill out court forms for a PFA order. You can get the forms from the district court clerk at your local county courthouse. You cannot get the forms at the municipal court or the federal court. If you have internet access, you can get the forms at www.kscourts.org.

You may want to get the forms and fill them out at home, if it is safe to do so, or with an advocate from a domestic and sexual violence victim services program. Most domestic and sexual violence victim services programs can help you while you fill out these papers and go to court.

If you get the forms from the district court clerk, the staff with the court will not be able to help you fill out the forms or give you legal advice.

Step 2: Carefully fill out the forms.

On the “Petition for Protection from Abuse Order,” you will be the plaintiff and the abuser will be the defendant.

- Fill out the petition completely.
- Be sure and provide as much detail as possible, such as dates and times of incidents, when filling in this question: “Describe why Plaintiff seeks a protection from abuse order and include specific facts.”
- Use specific language to tell what has happened to you, for example – details about the slapping, hitting, following, calling, grabbing, and threatening, if any.

- Tell your story as completely as possible. Use additional sheets of paper if necessary. You want to make sure the judge is aware of your situation. Remember, the judge was not there when these things happened.
- Describe all the times when the defendant has been physically violent to you or attempted to be physically violent to you or has threatened to harm you.
- If you don't understand something, you can ask an advocate with a domestic and sexual violence victim services program. The district court clerk cannot answer questions about how to fill out the paperwork.

Step 3: Give identifying information about the defendant.

The “Service Cover Sheet and NCIC Information Form” will ask for detailed information about the abuser. Fill this out as completely as possible. If you are filling out the paperwork at the courthouse, it is helpful to bring identifying information about the defendant with you. Information about the abuser that is helpful to law enforcement is:

- Social security number
- Date of birth
- Addresses where the abuser can be found – work and home address, a relative’s address
- Phone numbers
- A description and license plate number of the defendant’s car
- Driver’s license number

Step 4: Go to the county courthouse or the district court to file the forms.

Filing forms means giving the paperwork to the district court clerk during regular business hours. The place to file your PFA petition (paperwork) is at the district court clerk’s office. Remember the district court is the county court. You cannot file these forms at the municipal court or federal court. You can find your district

court contact information at www.kscourts.org.

You also need to decide in what county you will file the PFA paperwork. You can file the forms in the county courthouse where you live, where the abuser lives, or where the abuse happened. If you have fled from your home, gone to a shelter, or are living somewhere else to avoid abuse, you can file the paperwork in the county where you are. Speak with an advocate at a domestic and sexual violence victim services program if you have questions about filing PFA paperwork.

Step 5: A judge will review your petition and decide whether to give you a temporary order.

A judge will read your petition (paperwork) and decide whether to give you a temporary protection order. The temporary order is only good until the abuser has a chance to tell his or her side of the story at a final or full hearing. The court clerk will give you a court date for the final or full court hearing, which will usually take place within 21 days. At the final or full hearing, the court can lengthen your order or issue a final order of protection after hearing from you and the abuser.

Your temporary order is an order that will provide you with protection until the final or full court hearing. You should keep it with you at all times. It will expire when the final order is served on the abuser or when the judge dismisses it. Remember if you do not go to the final hearing, your temporary order will expire.

You should get a date for a full court hearing whether the judge gives you a temporary order or not. If the court does not set your case for a hearing and you want a hearing, you should contact a domestic and sexual violence victim services program or an attorney. Remember, if the case is set for hearing and you don't have a temporary order, the abuser will still receive a copy of the

petition alerting him or her that you are asking for a protection order. This could be very dangerous for you. This is a critical time for you to have a safety plan.

Step 6: Service of Process.

“Service of process” means giving the court paperwork to the defendant. Law enforcement will directly hand the defendant a copy of your petition, notice of hearing, and any temporary PFA orders that the judge has given you. Service of process tells the abuser that you are filing for a final order of protection. The abuser will also receive a copy of the temporary order of protection and must follow this order. Law enforcement officers can now arrest the abuser for violating the temporary order.

If the defendant does not receive this paperwork before the hearing, the court clerk will reschedule the hearing. You should still go to this hearing, even if you don’t think the abuser has been given the paperwork yet.

The information in the “Service Cover Sheet and NCIC Information Form” helps law enforcement officers find the abuser and personally give him or her the court paperwork. This is why it is so important to fill out the address and other information about the abuser as completely as possible on the paperwork. The court cannot enter a final order until law enforcement personally gives the paperwork to the abuser.

It is not necessary for you to personally give the paperwork to the abuser. It is important, however, for you to be thinking about and planning for your safety when law enforcement gives the abuser the paperwork.

Step 7: Prepare for a PFA order hearing.

A domestic and sexual violence victim services program has

advocates who can answer your questions about what to expect at a hearing. In preparing for this hearing, it may be helpful to write down things you want to remember to tell the judge. You can take this list with you to court. You will want to take any witnesses that can help you prove your case. You should take anything else that might help prove your case such as photographs, receipts, and medical records.

As a person asking for a PFA order, you must prove that the other person has abused you and/or your children. The judge will ask you to present your case during the hearing. You must show the judge that your story is more likely to be true than is the abuser's story.

Step 8: Final or Full Court Hearing.

On the day of the final or full hearing, you must attend in order to ask to have your temporary order (usually valid for up to 21 days) turned into a final PFA order. The final order can last for up to one year. If you do not go to the hearing, your temporary order will expire and your case will be dismissed.

If the defendant does not show up for the hearing, the judge may enter a "default" order, giving you a final order of protection.

The judge also could decide to delay the full hearing to allow the defendant to get an attorney.

You can represent yourself, but you may want to consider hiring an attorney to help with your case. If the defendant shows up with an attorney, you can ask the judge for a "continuance" (a later court date) so that you have time to consult with an attorney.

Sometimes at the final hearing, the judge will continue the

hearing to another day. Generally, however, at the final hearing, the defendant can be present and can tell the judge his or her side of the story. At this time, you will need to be prepared to tell your side of the story, talk about the information you wrote in the petition (paperwork), and/or provide evidence supporting that information. You may want to refer to the list you made earlier so you don't forget anything you intended to tell the judge. You may want to have witnesses present who can support your side. You should come to the final hearing even if you think the defendant may not be there. At the final hearing, the judge will either grant or deny your petition for a final protection order.

Does the abuse have to be recent in order for me to get a protection order?

Abuse does not have to be recent for you to be able to get a PFA order. (See Legal Authorities, page 38.) If someone tells you that you cannot get an order because the abuse is not recent, you should speak with an attorney or a domestic and sexual violence victim services program advocate about your options.

I was told I could file for a PFA order only two times in a year. Is this right?

The law used to say that you cannot "use the procedure" more than twice in twelve months. The law has since been changed. Contact the domestic and sexual violence victim services program nearest you or an attorney if a court denies your petition based on having filed more than twice in a twelve month period.

What can I do if the district court clerk will not let me file my petition?

If you are not allowed to file a PFA petition, contact an attorney or the domestic and sexual violence victim services program nearest to you and discuss your options.

What is a Mutual Order and what are its effects?

A mutual order is a PFA order that says both people have abused each other. A mutual order directs that both parties not have contact with each other. It would be a crime for either party to break a mutual order.

A court can only issue a mutual order if all of the following three things happen: (1) The abuser files paperwork against you. (2) You are personally given a copy of the paperwork the abuser has filed against you, and you are given the paperwork ahead of court with enough time to respond. (3) The judge makes a decision that you and the abuser both acted primarily as aggressors, and neither of you acted in self-defense. (See Legal Authorities, page 38.)

Should I agree to a Mutual Order?

Consider the following:

- If you violate the mutual order, law enforcement can arrest you and charge you with a crime.
- Your spouse or intimate partner may use the mutual order against you in your custody or divorce case saying you are an abuser.
- If you are an immigrant, the mutual order may affect your ability to gain or maintain a legal status. Violation of a protection order is a deportable offense.
- It can be very difficult for law enforcement to sort out who has actually broken a mutual order. When an order only applies to one person, it is easier for law enforcement to see who has broken the order.
- The American Bar Association says, “It is well recognized that mutual orders do not provide safety and protection for the victim; are difficult for the police to enforce; usually ineffective in preventing future violence; and, may further endanger the victim.” (See Legal Authorities, page 38.)

- A mutual order is saying that you have been physically abusive of your abuser.

If you are seeking a protection order to help you be safe then a mutual order is not going to help you. As a general rule, mutual orders are not good for victims. Before agreeing to a mutual order you should seek the advice of an attorney or a court advocate with domestic violence, sexual assault and stalking training.

Can the judge require the abuser to move out of our home?

Yes, in some circumstances. The answer to this question depends on several factors that the judge will consider. The judge can also order the abuser to pay for other housing for you.

Protection from Stalking Orders

I spoke with an advocate and want to get a protection order. What are the next steps for getting a PFS order?

There are eight steps for getting a PFS order.

Step 1: Get the necessary forms.

You will need to fill out court forms for a PFS order. You can get the forms from the district court clerk at your local county courthouse. You cannot get the forms at the municipal court or the federal court. If you have internet access, you can get the forms at www.kscourts.org.

You may want to get the forms and fill them out at home if it is safe to do so or with an advocate from a domestic and sexual violence victim services program. Most domestic and sexual violence victim services programs can help you while you fill out these papers and go to court.

If you get the forms from the district court clerk, the staff with the court will not be able to help you fill out the forms or give you legal advice.

Step 2: Carefully fill out the forms.

On the “Petition for Protection from Stalking Order,” you will be the plaintiff and the stalker will be the defendant.

- Fill out the petition completely.
- Be sure and provide as much detail as possible, such as dates and times of incidents, when filling in this question “Describe the incidents of stalking. Include specific facts, dates and locations.”
- Use specific language to tell what has happened to you, for example – details about the stalker following, calling, and threatening you, if any.
- Tell your story as completely as possible. Use additional sheets of paper if necessary. You want to make sure the judge is

aware of your situation. Remember, the judge was not there when these things happened.

- Describe in detail the harassing actions. Be sure to give specific dates and locations.
- Be sure and describe why the harassing actions make you afraid for your safety.
- If you don't understand something, you can ask an advocate with a domestic and sexual violence victim services program. The district court clerk cannot answer questions about how to fill out the paperwork.

Step 3: Give identifying information about the defendant.

The "Service Cover Sheet and NCIC Information Form" will ask for detailed information about the stalker. Fill this out as completely as possible. If you are filling out the paperwork at the courthouse, it is helpful to bring identifying information about the defendant with you. Information about the stalker that is helpful to law enforcement is:

- Social security number
- Date of birth
- Addresses where the stalker can be found – work and home address, a relative's address
- Phone numbers
- A description and license plate number of the defendant's car
- Driver's license number

Step 4: Go to the county courthouse or the district court to file the forms.

Filing forms means giving the paperwork to the district court clerk. The place to file your PFS petition (paperwork) is at the district court clerk's office. Remember the district court is the county court. You cannot file these forms at the municipal court or federal court. You can find your district court contact information at www.kscourts.org.

When filing the PFS paperwork on behalf of a minor, you must file the forms in the county where the stalking happened.

Step 5: A judge will review your petition and decide whether to give you a temporary order.

A judge will read your petition (paperwork) and decide whether to give you a temporary protection order. The temporary order is only good until the stalker has a chance to tell his side of the story at a final or full hearing. The court clerk will give you a court date for the final or full court hearing, which will take place usually within 21 days. At the final or full hearing, the court can lengthen your order or issue a final order of protection after hearing from you and the stalker.

Your temporary order is an order that will provide you with protection until the final or full court hearing. You should keep it with you at all times. It will expire when the final order is served on the stalker or when the judge dismisses it. Remember if you do not go to the final hearing, your temporary order will expire.

You should get a date for a full court hearing whether the judge gives you a temporary order or not. If the court does not set your case for a hearing and you want a hearing, you should contact a domestic and sexual violence victim services program or an attorney. Remember, if the case is set for hearing and you don't have a temporary order, the stalker will still receive a copy of the petition alerting him or her that you are asking for a protection order. This could be very dangerous for you. This is a critical time for you to have a safety plan.

Step 6: Service of Process.

“Service of process” means giving the court paperwork to the defendant. Law enforcement will directly hand the defendant a copy of your petition, notice of hearing, and any temporary PFS

orders that the judge has given you. Service of process tells the stalker that you are filing for a final order of protection. He or she will also receive a copy of the temporary order of protection and must follow this order. Law enforcement officers can now arrest him or her for violating the temporary order.

If the defendant does not receive this paperwork before the hearing, the court clerk will reschedule the hearing. You should still go to this hearing, even if you don't think the stalker has been given the paperwork yet.

The information in the "Service Cover Sheet and NCIC Information Form" helps law enforcement officers find the stalker and personally give that person the court paperwork. This is why it is so important to fill out the address and other information about the stalker as completely as possible on the paperwork. The court cannot enter a final order until law enforcement personally gives the paperwork to the stalker.

It is not necessary for you to personally give the paperwork to the stalker. It is important, however, for you to be thinking about and planning for your safety when law enforcement gives the stalker the paperwork.

Step 7: Prepare for a PFS order hearing.

A domestic and sexual violence victim services program has advocates who can answer your questions about what to expect at a hearing. In preparing for this hearing, it may be helpful to write down things you want to remember to tell the judge. You can take this list with you to court. You will want to take any witnesses who can help you prove your case. You should take anything else that might help prove your case such as photographs, receipts, and medical records.

As a person asking for a PFS order, you must prove that the other person has stalked you and show a judge that you are afraid for your safety. The judge will ask you to present your case first during the hearing. You must show it is more likely true than not true that the defendant stalked you and you were afraid.

Step 8: Final or Full Court Hearing.

On the day of the final or full hearing, you must attend in order to ask to have your temporary order (usually valid for up to 21 days) turned into a final PFS order. The final order can last for up to one year. If you do not go to the hearing, your temporary order will expire and your case will be dismissed.

If the defendant does not show up for the hearing, the judge may enter a “default” order, giving you a final order of protection.

The judge also could decide to delay the full hearing to allow the defendant to get an attorney.

You can represent yourself, but you may want to consider hiring an attorney to help with your case. If the defendant shows up with an attorney, you can ask the judge for a “continuance” (a later court date) so that you have time to consult with an attorney.

Sometimes at the final hearing, the judge will continue the hearing to another day. Generally, however, at the final hearing, the defendant can be present and can tell the judge his or her side of the story. At this time, you will need to be prepared to tell your side of the story, talk about the information you wrote in the petition (paperwork), and/or provide evidence supporting that information. You may want to refer to the list you made earlier so you don’t forget anything you intended to tell the judge. You may want to have witnesses present who can support your side. You

should come to the final hearing even if you think the defendant may not be there. At the final hearing, the judge will either grant or deny your petition for a final protection order.

What can I do if the district court clerk will not let me file my petition?

If you are not allowed to file a PFS petition, contact an attorney or the domestic and sexual violence victim services program nearest you to discuss your options.

After You Have a Protection Order

The judge granted me a PFA or PFS order. What should I do now?

You should consider doing these things:

- Look at the order before you leave the courthouse. Ask the judge or advocate any questions you have about it.
- Make copies of the PFA or PFS order.
- Keep a copy of the order with you at all times.
- If appropriate, leave copies of the order at your job, your home, the children's school or daycare, in your car, with a neighbor, and other places you may be regularly.
- Consider giving a copy to the security guard, landlord or person at the front desk where you live and/or work.
- Speak with an advocate about creating a safety plan.
- Check with the sheriff in the county where you filed the paperwork to make sure they have entered the NCIC. This will allow you to travel more safely.

The judge denied my request for a PFA or PFS order. What can I do?

You can contact a domestic and sexual violence victim services program in your area to get help, support and information on how to stay safe. Advocates at the program can help you with a safety plan and help connect you with resources.

How do I change an order?

You will need to fill out a "Motion to Modify." A copy of a sample motion may be in the packet of papers you got from the court clerk. You would take the motion to modify (paperwork) to the same court where you took your protection order paperwork.

In this paperwork, you would explain how you want to change the order. For example, you may want to change the order if the drop-off place where you and the abuser exchange the children is not working and you want it to be different. You would explain

what it is you want to change and why. In this example, your motion to modify would ask the judge to change the order so the drop-off place is different because of the problems with the other drop-off place. You may want to ask an attorney or advocate to help you with this. You can also get this form online at www.kscourts.org.

An agreement between you and the abuser or stalker cannot change the order. The only person who can change the order is the judge. If you want the abuser or stalker to have contact with you, you will need to go back to the court and ask the judge to change the order.

How do I extend my order?

There are two types of extensions for both PFA and PFS orders:

- For an extension up to one year, you will need to fill out a “Motion to Extend Final Protection from Abuse Order for One Additional Year” form available online at www.kscourts.org or from the court clerk. This motion to extend (paperwork) should be filed in the same court where you took your original protection order paperwork.
- If the defendant has violated a valid protection order or has been convicted of committing a person felony against you or a member of your household, you may be able to get an extension of the order for not less than two years and up to the lifetime of the defendant. In order to seek this longer extension, you will need to fill out a “Motion to Extend Final Protection from Abuse Order for Two Additional Years or up to Life.” This form is available online at www.kscourts.org or from the court clerk. This form requires you to include information about the violation or the conviction, swear to it by signing the motion, and asking the court to personally serve the defendant with a copy of the motion. This extension requires that there be a hearing on the motion where you are given the opportunity to present evidence or testimony to the violation

or conviction and the defendant also has the opportunity to present evidence in their defense. The defendant can present witnesses as well as ask questions of you or your witnesses. If the court finds that the defendant more likely than not violated a valid protection order or was convicted of a person felony, the court should extend the order for anywhere from two years to the lifetime of the defendant.

You must ask for either of these extensions before your original order expires.

After I get a protection order, what happens if the abuser or stalker breaks the order?

It is a crime to break a protection order. If the abuser or stalker breaks or violates the order, you can call law enforcement and make a report.

When you report it to law enforcement, be sure to give the officer everything that shows the abuser or stalker broke the order.

Examples of how you can help the officer are:

Show the officer phone messages and text messages.

Give the officer names of other persons who saw or heard the abuser or stalker break the order.

Tell the officer what the abuser or stalker did. For example, what the abuser or stalker was wearing, what the abuser or stalker was driving, the direction the abuser or stalker went when leaving and everything the abuser or stalker did that broke the order. Show the officer where the abuser or stalker was outside your house or job.

The officer you are talking with probably has no idea about all

the things that have happened to you before. Some officers may want to know the whole story and others may not. Do not assume the officer you are talking with knows the history of the abuse or stalking.

Always keep a copy of your protection order nearby. Show the officers a copy of the order when they get there. If what happened made you afraid, you should tell the officer why it made you afraid.

The officer may or may not arrest the abuser or stalker. This will depend on the practices of the law enforcement agency, the facts that the officers have, and the decision of the officer who takes the report. After the officers make the report, they should send the report to the prosecutor. The prosecutor may or may not file charges against the abuser or stalker. This will depend on the practices of the prosecution office, the facts the prosecutor can prove, and the decisions of the individual prosecutor. The prosecutor decides whether to charge the abuser or stalker with a crime.

Typically, prosecuting a crime can take several months to a year or longer. This includes the time from the point of filing charges through to the conclusion of the case.

There is another way you can report the violation of the order directly to the judge. You will probably need someone to help you file this “contempt” motion. A program advocate or attorney can give you more information about this.

I still have some questions. Who can help me find the answers? You may want to contact the domestic and sexual violence victim services program in your area and ask to speak with an advocate. An advocate can help answer your questions. If you can afford to

do so, you can hire an attorney who can discuss the law further with you.

Remember, a protection order can be a valuable tool to help you stay safe. You should always have a safety plan when you are considering or are getting a protection order. An advocate can provide support and information during this process. You are not alone.

State Resources

Kansas Crisis Hotline

Toll-free, 24-hour statewide crisis hotline developed to link victims of domestic violence, sexual assault, and stalking to crisis programs across Kansas.

<http://www.kcsdv.org/find-help/in-kansas.html>

1-888-END ABUSE (1-888-363-2287)

Kansas Coalition Against Sexual and Domestic Violence (KCSDV)

KCSDV is a statewide network of domestic and sexual violence victim services programs whose primary goals are safety, accountability, and justice.

www.kcsdv.org

785-232-9784; 8:30 a.m. to 5:00 p.m. (not a crisis line)

Kansas Legal Services

Kansas Legal Services provides low cost and free legal representation in Kansas.

<http://www.kansaslegalservices.org>

1-800-723-6953

Kansas Lawyer Referral Service

<http://www.ksbar.org>

1-800-928-3111

Child Exchange and Visitation Centers

Contact the Office of the Kansas Attorney General to find the locations of Child Exchange and Visitation Centers.

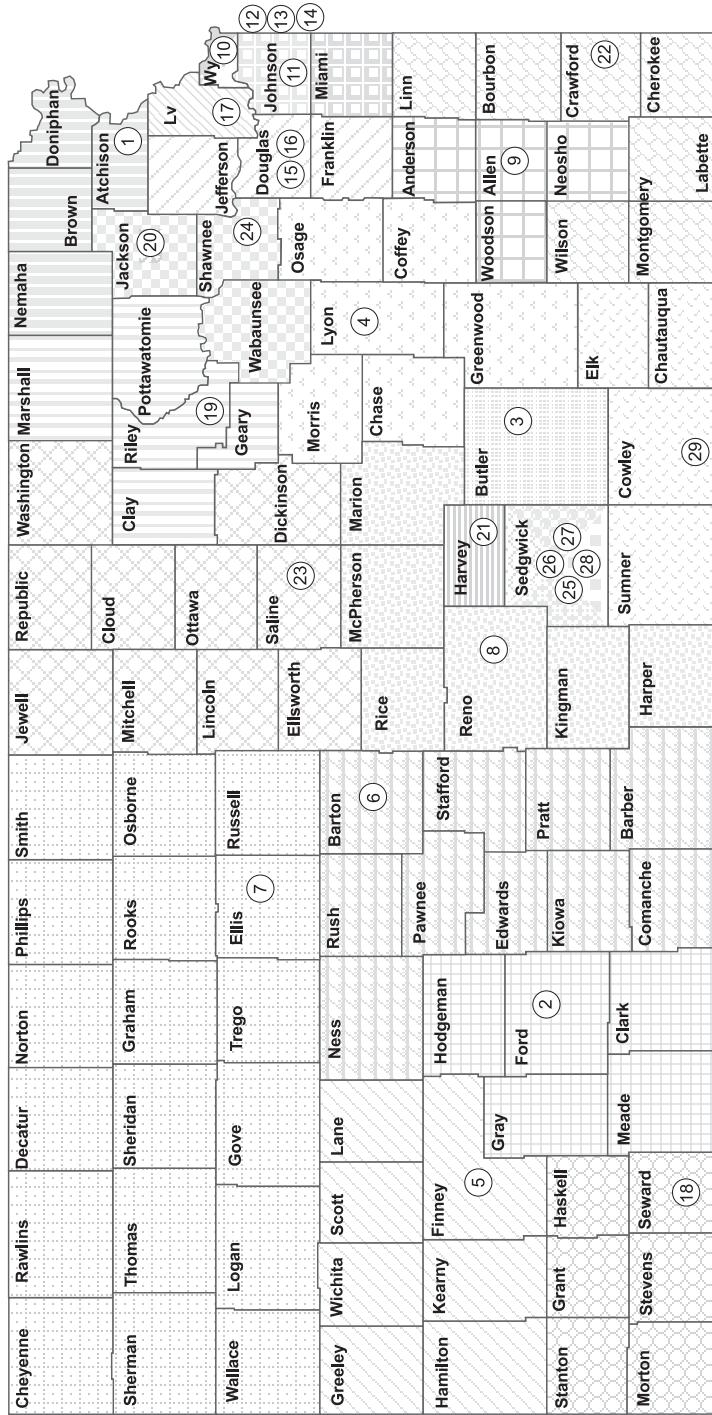
Office of the Kansas Attorney General

Victim Services Division
120 SW 10th Ave., 2nd Floor
Topeka, KS 66612-1597
1-800-828-9745
<http://ag.ks.gov/>

Victim Services

The list of domestic and sexual violence victim services programs in Kansas and a map of their locations are on the following pages. The numbers on the map correspond to the programs listed. Call the program nearest you. You do not have to live in the city where the program is located to use their services.

Kansas Domestic and Sexual Violence Victim Services Programs



DV = domestic violence services provided
 SA = sexual assault services provided

CITY	SERVICES	DV/SA PROGRAMS	CRISIS HOTLINE NUMBER
1. Atchison	DV/SA	DoVES.....	800-367-7075 or 913-367-0363
2. Dodge City	DV/SA	Crisis Center of Dodge City	866-270-2270 or 620-225-6510
3. El Dorado	DV/SA	Family Life Center of Butler County	800-870-6967 or 316-321-7104
4. Emporia	DV/SA	SOS, Inc.	800-825-1295 or 620-342-1870
5. Garden City	DV/SA	Family Crisis Services	800-275-0535 or 620-275-5911
6. Great Bend	DV/SA	Family Crisis Center.....	866-792-1885 or 620-792-1885
7. Hays	DV/SA	Options: Domestic and Sexual Violence Services, Inc.	800-794-4624 or 785-625-3055
8. Hutchinson	DV/SA	Sexual Assault/Domestic Violence Center	800-701-3630 or 620-663-2522
9. Iola	DV/SA	Hope Unlimited.....	620-365-7566
Kansas City Metro			
10. Wyandotte Cnty	DV	Friends of Yates - Della Gill/Joyce H. Williams Center	913-321-0951
11. Johnson Cnty	DV	Safefome	888-432-4300 or 913-262-2868
12. MOCSA	DV/SA	MOCSA.....	913-642-0233 or 816-531-0233
13. El Centro	SA	El Centro, Inc. iSi Se Puede!	913-677-0100
14. KCAPP	DV/SA	Kansas City Anti-Violence Project (LGBT services)	816-561-0550
15. Lawrence	SA	The Sexual Trauma and Abuse Care Center	785-843-8985
16. Lawrence	DV	The Willow Domestic Violence Center	800-770-3030 or 785-843-3333
17. Leavenworth	DV/SA	Alliance Against Family Violence.....	800-644-1441 or 913-682-9131
18. Liberal	DV/SA	Liberal Area Rape Crisis and DV Services	620-624-8818
19. Manhattan	DV/SA	The Crisis Center, Inc.....	800-727-2785 or 785-539-2785
20. Mayetta	DV/SA	Prairie Band Potawatomi Family Violence Prevention Program	866-966-0173
21. Newton	DV/SA	Harvey County DV/SA Task Force	800-487-0510 or 316-283-0350
22. Pittsburg	DV/SA	Safehouse Crisis Center, Inc.	800-794-9148 or 620-231-8251
23. Salina	DV/SA	Domestic Violence Assoc. of Central Kansas.....	800-874-1499 or 785-827-5862
24. Topeka	DV/SA	YWCA Center for Safety and Empowerment	888-822-2983 or 785-354-7927 evening 785-234-3300
25. Wichita	DV	Catholic Charities Harbor House.....	866-899-5522 or 316-263-6000
26. Wichita	DV	StepStone.....	316-265-1611
27. Wichita	SA	Wichita Area Sexual Assault Center	316-263-3002 o español: 316-263-2044
28. Wichita	DV	YWCA Women's Crisis Center	316-267-7233
29. Winfield	DV/SA	Safe Homes, Inc.....	800-794-7672 or 620-221-4357

Legal Authorities

Protection from Abuse Act, K.S.A. 60-3101 *et seq.*

Protection from Stalking Act, K.S.A. 60-31a01 *et seq.*

Violation of Protective Order, K.S.A. 21-5924.

Does the abuse have to be recent . . . from page 20.

“We believe it would be contrary to the intent of the law to hold that no order could be issued unless the acts of violence were recent and presented an immediate threat to the victims who seek protection.”

“We hold that the Act does not require focusing on the timing of either recent abuse or future risk as a condition precedent to the issuance of an order for protection from abuse.”

Trolinger v. Trolinger, 30 Kan. App. 2d 192, 198-199, 42 P. 3d 157 (2001).

Mutual Orders . . . from page 21.

“(b) No protection from abuse order shall be entered against the plaintiff unless:

(1) The defendant properly files a written cross or counter petition seeking such a protection order;

(2) the plaintiff had reasonable notice of the written cross or counter petition by personal service as provided in subsection (d) of K.S.A. 60-3104, and amendments thereto; and

(3) the issuing court made specific findings of abuse against both the plaintiff and the defendant and determined that both parties acted primarily as aggressors and neither party acted primarily in self-defense.” (K.S.A. 60-3107(b)(1), (2) and (3)).

Standards of Practice for Lawyers Representing Victims of Domestic Violence Sexual Assault, and Stalking in Civil Protection Order Cases, American Bar Association, p. 9 (2007).

<http://www.abanet.org/domviol/docs/StandardsCommentary.pdf>

Glossary

Abuse: This has many different meanings, even within the law. In the Protection from Abuse Act, abuse is when someone is physically violent with you, attempts to be physically violent with you, or threatens to be physically violent with you.

Advocate: A person employed with a domestic and sexual violence victim services program who can provide free and confidential services to victims of sexual and domestic violence and stalking.

Attorney or Lawyer: A legal advocate licensed to practice law. Attorney and lawyer mean the same thing.

Counter-petition: A written response to another person's petition. It is filed with the court. It includes responses to the original petition and other requests.

Court Clerk: The court official who keeps court records and files.

Defendant: The person against whom a lawsuit is filed in court. Other words for a defendant are "the accused" or "the respondent."

Domestic and Sexual Violence Victim Services Program: An organization serving survivors of sexual assault, domestic violence, and stalking.

Hearing: When people are present in court and a judge listens to what they have to say about the case.

Order: A legally binding decision signed by a judge.

Personal Service: The handing of the petition or other court documents to the other party. The Protection from Abuse Act and Protection from Stalking Act both require "personal" service,

which means the information has to be handed personally to the party being served. This means the papers cannot be left at the door, given to someone else, sent through the mail, or published in the paper.

Petition: A written application given to the court asking the court to do something.

PFA: Protection from abuse.

PFS: Protection from stalking.

Plaintiff: The person who files a lawsuit with the court. May also be referred to as the petitioner.

Service: see Personal Service

Stalking: This has many different meanings, even within the law. Stalking in the Protection from Stalking Act is the intentional harassment of another person which makes that person afraid for her or his safety. The harassment must include 2 or more individual acts.

Violation: As used in this booklet, this means breaking a protection order. Also called “violation of a protection order.” A violation would include an abuser or stalker contacting you after a judge has told them in a written order not to have contact.