

STUDENT SUCCESS SERVICES – ALTAMONTE CAMPUS  
SEMINOLE COMMUNITY COLLEGE



# LEGAL INFORMATION & DOMESTIC VIOLENCE

Excerpted from [www.WomensLaw.org](http://www.WomensLaw.org)

# Injunction for Protection Against Domestic Violence

An Injunction for Protection Against Domestic Violence is a civil order that provides protection from abuse by a family or household member.

## Basic Information

### What is an Injunction for Protection against Domestic Violence?

An injunction for protection against domestic violence (sometimes called an injunction or a restraining order) is a court document that orders the abuser to stop doing certain acts (such as abusing you or coming near you) and makes the abuser do other acts (such as leaving your home). If you have an injunction, and the abuser violates it, the police may arrest him for the violation.

### What is the legal definition of domestic violence in Florida?

This section defines domestic violence for the purposes of getting an injunction for protection against domestic violence.

Domestic violence means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.\* If you are the victim of domestic violence or if you have reasonable cause to believe you are in immediate danger of becoming the victim of any act of domestic violence, you can apply for an injunction against domestic violence.\*\*

If you are unsure if what you have experienced comes under one of the crimes listed above, take a look at the categories listed in the petition for an injunction for protection against domestic violence to see if any apply to you:

\_\_\_\_\_committed or threatened to commit domestic violence defined [above]

\_\_\_\_\_previously threatened, harassed, stalked, or physically abused the petitioner.

\_\_\_\_\_attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

\_\_\_\_\_ threatened to conceal, kidnap, or harm the petitioner's child or children.

\_\_\_\_\_ intentionally injured or killed a family pet.

\_\_\_\_\_ used, or has threatened to use, against the petitioner any weapons such as guns or knives.

\_\_\_\_\_ physically restrained the petitioner from leaving the home or calling law enforcement.

\_\_\_\_\_ a criminal history involving violence or the threat of violence (if known).

\_\_\_\_\_ another order of protection issued against him or her previously or from another jurisdiction (if known).

\_\_\_\_\_ destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

\_\_\_\_\_ engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence.\*\*\*

## **How can an Injunction for Protection against Domestic Violence help me?**

An injunction for protection against domestic violence can:

- order the abuser to stop abusing you
- tell the abuser to leave you alone
- order the abuser to leave the home you share with him
- establish temporary custody and visitation of your children
- give you temporary child support or spousal support
- order the abuser to go to treatment, counseling, or a batterers' intervention program
- refer you to a certified domestic violence center
- order anything else that the judge believes is necessary for your protection or the protection of your children.\*

A judge will decide which of the above will be included in the order.

If you ever call the police to report an incident of domestic violence, the law requires the police

officers to tell you about your legal rights and to provide you with information regarding the help that is available to you. The police also must help you get medical treatment if you need it. They also will tell you how to contact your local domestic violence center for additional help.

## **Am I eligible to obtain an Injunction for Protection against Domestic Violence?**

Injunctions for Protection against Domestic Violence protect you against family or household members. You can file a petition for an Injunction for Protection against Domestic Violence if your abuser is:

- Your husband or wife.
- Your ex-husband or wife.
- Any person related to you by blood or marriage (such as your aunt, cousin or brother-in-law).
- Any person who lives or has lived with you in the same single dwelling unit, as if they were part of the family. The law protects you against these people even if they are no longer living with you.
- The mother or father of your child, even if they have never lived with you or been married to you.\*

If you are a minor, you may need a parent or legal guardian to file for an injunction on your behalf.\*\* You may want to contact a domestic violence program for more information about how to get an injunction if you are a minor.

**Note:** If someone other than one of these people is hurting you, there are other petitions that you may be eligible to file for protection against violence. See [If I am not eligible to get an Injunction for Protection against Domestic Violence, is there some other Injunction that I can get for protection against violence?](#)

\* F.S.A. § 741.28(3)

\*\* F.S.A. § 748.046(2)

## **What types of Injunctions for Protection against Domestic Violence are there?**

In Florida, when you file a petition for Protection against Domestic Violence, the court automatically will consider giving you two types of Injunctions: a Temporary Injunction and a Final Injunction for Protection against Domestic Violence.

### **Temporary (ex parte) Injunctions**

The Temporary or ex parte Injunction is a court order designed to provide you and your family

members with immediate protection from your abuser. As soon as you file your petition for Protection against Domestic Violence, the clerk will give your petition to the judge. The judge will decide if you need immediate protection based only on the information in your petition. You will not have to testify and your abuser does not need to be present. If the judge decides that you need immediate protection, s/he will issue a Temporary Injunction against Domestic Violence.\*

Because the information in your petition is the only evidence that the judge will consider, you need to carefully fill out your petition to show the judge why you need immediate protection. For more information, please see [What are the steps for obtaining an Injunction for Protection against Domestic Violence?](#)

The Temporary Injunction takes effect as soon as the abuser has a copy of the order. This is called giving the abuser notice or having the abuser served with process. The clerk of court will explain the "notice" or "service" process to you.

The Temporary Injunction stays in effect for a certain number of days, but won't last longer than 15 days. Before the fixed time period ends, there will be a full hearing to decide whether to give you a Final Injunction. The date for the full hearing will be set at the same time the judge makes the decision about the Temporary Injunction. The Temporary Injunction will last until the full hearing takes place.

## **Final Injunctions**

At the full hearing, the judge will decide whether to give you a Final Injunction. The order of Final Injunction protects you like the Temporary Injunction does, but it will last longer than 15 days and may provide you with more protection than the Temporary Injunction did. The Final Injunction may have a set period of time that it will be in effect (for example, one year) or it may not have an expiration date. The judge will decide how long the Injunction will last and how much protection you need based on the facts of your case.

If the order of Final Injunction does not say when it will end, the Injunction will remain in effect unless a judge modifies (changes) or dissolves (gets rid of) it. If the Final Injunction has an expiration date, it will stay in effect until that date unless it is dissolved or modified by the court before that date.

This means that neither you nor the abuser can decide on your own to change or get rid of the Injunction. However, at any time either you or the abuser may ask the court to modify or dissolve the Injunction. You must remember that before any change can be made to the Final Injunction the court must agree to the change.\*\*

**Note:** If you are not eligible for an Injunction for Protection Against Domestic Violence, you may be eligible for a different type of Injunction against violence. Please see: [If I am not eligible to get an Injunction for Protection against Domestic Violence, is there some other Injunction that I can get for protection against violence?](#)

\* F.S.A. § 741.30

\*\* F.S.A. § 741.30

## **Is there a minimum amount of time that I must live in Florida before I may file a petition for an Injunction for Protection against Domestic Violence?**

No, there is no minimum requirement of residency for you to meet before you file a petition for an Injunction for Protection against Domestic Violence in Florida.\*

\* F.S.A. § 741.30

## **How much does it cost? Do I need a lawyer?**

There is no fee for filing a petition for an Injunction for Protection against Domestic Violence in the State of Florida.

You can represent yourself throughout the process of seeking an Injunction for Protection against Domestic Violence. When you represent yourself, it is called going to court "pro se". Many people have been successful in getting Injunctions when they have gone pro se, however, in many situations it would be to your advantage to have an attorney to help you through this process. (This is especially true if your abuser has an attorney or child custody issues are involved.) If you cannot afford an attorney, one of the legal aid providers listed on our [FL Finding a Lawyer](#) page may be able to assist you.

If you do not want to or cannot hire an attorney, there are many people who can help you go through the process of obtaining an Injunction. Having another person give you support through this process can be a tremendous help and could make it more likely for a judge to grant your order. You will find someone who can help and who knows the system by contacting a local domestic violence organization in your area on our [FL State and Local Programs](#) page.\*

\* F.S.A. § 741.30

**If I am not eligible to get an injunction for protection against domestic violence, is there some other injunction that I can get for protection against violence?**

Yes. If you do not qualify for an injunction for protection against domestic violence, you might qualify for one of these other types of injunctions:

**1. Injunction Against Repeat Violence.** You may file for an injunction against repeat violence against anyone who has committed at least two acts of violence or stalking against you or a member of your immediate family (your child, your parents, or a sister or brother) and one of those two acts of violence has occurred within the last six months.

**2. Injunction Against Dating Violence.** You may file for an injunction against dating violence if you have been abused or reasonably believe you are in immediate danger of becoming the victim of abuse by someone you have or had a continuing and significant relationship of a romantic or intimate nature within the past six months. Dating violence does not include violence in a casual acquaintanceship or violence between individuals who have only socialized in a business or social context. For a list of things that law enforcement has to do, please read section 748.046 (11) under FL Statutes.

**3. Injunction Against Sexual Violence.** You may file for an injunction against sexual violence if you are a victim of sexual violence, as it is defined in the Florida statutes. To be eligible to file a petition for an Injunction against sexual violence, you must have reported the incident of violence to the police or other law enforcement agency and be cooperating in any criminal proceeding against the abuser. What is an act of sexual violence under the law is defined in several different sections of the Florida statutes. The law enforcement agency to which you report the incident of violence will help you understand whether an act of sexual violence, as defined in the law, has been committed.

You also may file any of these petitions on behalf of any minor child (under 18) who is living at home and who is the victim of the violence for which protection is sought.\*

The clerk of the circuit court will provide you with forms and instructions for filing any of these petitions. The clerk also will assist you in filling out the forms.

The process will be similar to the process described above in "[What are the steps for obtaining an Injunction for Protection against Domestic Violence?](#)".

\* F.S.A. § 784.046 TACT US!

## What are the steps for getting an Injunction for Protection Against Domestic Violence?

### Step 1: Go to the courthouse and get the necessary forms.

To get an Injunction, you must file your petition for an Injunction for Protection Against Domestic Violence with the clerk of the circuit court. The clerk is the court official who keeps court records and files. You can file in one of three counties:

- In the county where you were living when the violence occurred
- In the county where you live, if you are currently or temporarily living in a different county
- In the county where your abuser lives, if your abuser lives in even another county

You can file in any of these counties, but you can't file in more than one county.

To find the location of the county courthouse where the clerk's office is located, go to our [FL Courthouse Locations](#) page or look in the county government section/page in the telephone directory or on your county's website.

The clerk of the circuit court will give you the forms you need and instructions for filing a "Petition for an Injunction for Protection against Domestic Violence". The petition will be your formal request for an Injunction.

You will also find links to online forms at our [Download Court Forms](#) page. This petition and other court papers may refer to your abuser as the "respondent" and to you as the "petitioner".\*

Also, you can get help through one of the domestic violence organizations listed on our [FL State and Local Programs](#) page.

You will need to have some form of identification (a driver's license or a picture I.D.) to file a petition.

\* F.S.A. § 741.30

## **Step 2: Fill out the forms.**

Carefully fill out the petition. If you need help filling out the forms, ask the clerk to help you. The forms you fill out will be used by the judge to determine why you need protection and what kind of protection you need.

If the paperwork asks for your address and you are afraid that giving your address will put you in danger, tell the clerk. S/he will help you fill out a form to ask the court to allow you to keep your address a secret.

You will be asked to give information about your abuser, including some of the following information:

1. A current address and phone number for the abuser, and if possible a work address and phone number, so that he can be served (formally given paperwork from the court).
2. If you are or were married to your abuser, when and where you were married, divorced, or separated.
3. A copy of any other current legal process or court case/order involving you and the person who has committed the abuse.
4. Copies of recent police and/or medical reports on recent domestic violence incidences (if you have them).

The form will ask you to give a detailed description of the facts and circumstances about the family violence and your reasons for seeking protection.

Read the petition carefully and ask questions if you don't understand something. Describe in detail how your abuser injured or threatened you. Explain when and where the abuse or threats occurred. Write briefly about the most recent incident of violence, using descriptive language (slapping, hitting, grabbing, choking, threatening, etc.) that fits your situation. Be specific. Include details and dates, if possible.

Do not sign the form until you have shown it to a clerk. **The form must be signed in front of a notary public or a judge. There are notaries and judges at the courthouse.**

## **Step 3: A judge will review your petition.**

After you finish filling out your petition, give it to the clerk of court. The clerk will immediately take the petition to the judge. The judge will review the petition promptly and will issue a Temporary ex-parte Injunction if s/he finds that there is an immediate threat of violence to either you or a family member.

The judge will decide whether to issue the Temporary Injunction based on the facts included in your petition, so you should be sure to include any details in your petition that show you are in immediate danger. The Temporary Injunction will be effective for no more than 15 days.

Before you can get a long term, Final Injunction, you will have to have a full court hearing with your abuser present. The judge will give you a date for the full hearing the same time s/he decides whether to give you a Temporary Injunction. The full hearing will be scheduled for a time before the Temporary Injunction expires.

#### **Step 4: What will I have to prove at the hearing?**

When you are requesting an Injunction for Protection, you must:

1. Prove that your abuser has committed acts of domestic violence (as defined by the law) against you and/or your children or that you are in immediate danger of violence; and
2. Convince a judge that you need the protection of an Injunction because the safety of you and your family are at risk.\*

See the **Preparing your Case** section under the Preparing for Court tab at the top of this page for ways you can show the judge that you were abused.

\* F.S.A. & 741.30

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#### **Step 5: Service of process.**

If you receive a Temporary ex-parte Injunction, it will not take effect until the papers have been given to (served) the abuser. The clerk of court will give all of the necessary paperwork to the sheriff or another law enforcement officer who will deliver ("serve") the papers to your abuser. If your abuser lives with you, you may ask the court to have a law enforcement officer go home with you to help enforce the Temporary Injunction. This means that if the Temporary Injunction requires your abuser to move out of the house, the law enforcement officer will make him leave. Tell the clerk that you want help to enforce the Injunction and ask for help in your petition.

Your abuser will also receive papers telling him when the hearing for the Final Injunction will take place. A judge cannot give you a Final Injunction at the hearing unless your abuser has been served.

## **Step 6: The Hearing**

You are required to go to the court hearing. If you find out you absolutely cannot attend, you must contact the court clerk immediately and ask how you can get a "continuance" for a later court date.

At the hearing, you will be asked to testify in court about the abuse and harassment you have experienced. The abuser will also be allowed to be present evidence and testify in the hearing.

If your abuser does not show up, the court may issue a "default judgment" and you may receive a Final Injunction against him without him being there. If not, a date for another court hearing may be set. If another hearing date is set and the judge does not extend the Temporary Injunction order, you should request that s/he do so before leaving the hearing, or as soon as possible afterwards.

## **After the Hearing**

### **Can anything be done to help prevent my spouse/ex from removing our children from the state or country in violation of a custody order (parenting plan)?**

Yes. In Florida, in a custody (parenting plan) proceeding, including a proceeding to modify a custody order (parenting plan) that is in place, upon the presentation of "competent substantial evidence" that there is a risk that one party may violate the court's order of visitation or custody (parenting plan and time -sharing schedule) by removing a child from the state or country, there are certain security measures that the court can take. The court may order that a parent not remove the child from the state or this country without the notarized written permission of both parents or a further court order; the court may order that a parent not take a child to a country that does not follow certain policies on international child abduction unless the other parent agrees in writing that the child may be taken to that country; the court may require that a parent surrender the passport of the child; and the court may require that a parent post bond or other security.\*

There are many factors that the court will consider in determining whether any security measures are necessary. Presenting "competent substantial evidence" to support your position that there is a need for the measures may be difficult. In addition, even if one or more of these measures is provided in the custody order (parenting plan), there may be additional steps that you will have to take, and for which you may need help, to ensure that the provisions of the order are followed. Please seek the

advice of a lawyer regarding this matter. If you need assistance in finding a lawyer, you may call the bar association in your county. Also, the organizations listed on our [FL State and Local Programs](#) page will be able to refer you to a lawyer or another organization that will be able to assist you.

\* Fla. Stat. § 61.45 Top of Form

## What should I do when I leave the courtroom?

- Review the Injunction before you leave the courthouse. If something is wrong or missing, ask the clerk to correct the order before you leave.
- The clerk of court will give you at least two certified copies of the order of Injunction for Protection against Domestic Violence. You may want to make several more copies of the Injunction as soon as possible.
- Keep a copy of the Injunction with you at all times.
- Leave copies of the Injunction at your work place, at your home, at the children's school or daycare, in your car, with a sympathetic neighbor, and so on.
- Give a copy to the security guard or person at the front desk where you live and/or work.
- Give a copy of the Injunction to anyone who is named in and protected by the order.
- If the court has not given you an extra copy for your local law enforcement agency, take one of your extra copies and deliver it to them.
- You may wish to consider changing your locks and your phone number.
- Be aware of your safety- if you are concerned that your abuser may try to approach you, contact a court officer.

It is important to recognize the limitations of a Final Injunction. You must be vigilant in enforcing the order's provisions by reporting every violation to the police or the court. Ongoing safety planning is important after receiving the Injunction. Women can do a number of things to increase their safety during violent incidents, when preparing to leave an abusive relationship, and when they are at home, work, and school. Many batterers obey Injunctions, but some do not and it is important to build on the things you have already been doing to keep yourself safe. View our [Staying Safe](#) page for some suggestions. Advocates at local resource centers can assist you in designing a safety plan and can provide other forms of support. For a list of resource centers, see our [FL State and Local Programs](#) page.

## What can I do if the judge doesn't give me an Injunction?

You can try to talk to the Clerk to find out what the problem was. It might just be something wrong in the paperwork. If possible, correct the problem or ask the Clerk what else you can do. It may be necessary at this point to contact a lawyer. You will find contact information for legal aid and other legal assistance on the [FL Finding a Lawyer](#) page of this website.

You may want to view our [Staying Safe](#) page as well, for other ways you can increase your safety.

## What can I do if the abuser violates the Injunction?

**Call the police right away.** Tell the police that you have an Injunction for Protection Against Domestic Violence. Make sure you have a copy of the Injunction to show the police when they arrive. When the police arrive, insist that the abuser be arrested. After the abuser is arrested, s/he will be in jail until the court determines bail. In considering the abuser's case, the court will consider your safety and the safety of your children. You may go to court if you wish, but it is not necessary.

If the Injunction is violated but the abuser is not arrested, report the violation to the Clerk's office in the courthouse where the violation occurred. The Clerk will help you take the appropriate steps to enforce your Injunction. In enforcing the Injunction, the judge will consider your safety and the safety of your children.

## What if I move?

Your Final Injunction and Temporary ex parte Injunction are good where ever you go in Florida.

Additionally, the federal law provides what is called "Full Faith and Credit," which means that once you have a criminal or civil protection order (like an Injunction for Protection), it follows you wherever you go, including U.S. Territories and tribal lands. Different states have different rules for enforcing out-of-state protection orders. You can find out about your state's policies by contacting a domestic violence program, the clerk of courts, or the prosecutor in your area.\*

If you are moving out of state, you should call the battered women's program in the state where you are going to find out how *that* state treats out-of-state orders.

Remember to take a certified copy of your Injunction with you when you move.

If you are moving to a new state, you may also call the **National Center on Full Faith and Credit**, at the Battered Women's Justice Project (**1-800-903-0111**) for information on enforcing your order there.

Because a Temporary ex parte Injunction is given based only on your information and the abuser did not have an opportunity to be heard, there may be limitations on the enforcement of a Temporary ex parte Injunction in another state.

\* 18 U.S.C. §2265

## **What if my abuser is in the military?**

Civil protective orders have recently been made enforceable on military bases but enforcement may not be consistent yet. Military protective orders may not be enforceable off base. Please check with your local police department, court clerk, and/or domestic violence advocate for more details. Please see our [Military Info](#) page for more information.

The United States Department of Defense also has a website that gives information for victims of domestic violence who are in the military or who are in a relationship with someone who is serving in the military. Please go to [www.militaryhomefront.dod.mil](http://www.militaryhomefront.dod.mil) for the Department of Defense page on Military Homefront family Advocacy/Domestic Violence.

## **How do I change the Injunction?**

If you want to change your Injunction, you must go back to Circuit Court and ask the clerk for the forms to amend (change) your Injunction. You may have to have another hearing in court. (Go to [Courthouse Locations](#) to find your local courthouse.)

## **What do I do if the order expires?**

If your Injunction for Protection against Domestic Violence expires, you can ask the court for an extension of the original order before it expires. You need to go to the Circuit Court clerk to request an extension. You will probably have to fill out a petition similar to the one you filled out for the original order. You will need to convince the judge that you continue to need the court's protection. Once the order expires, it is no longer effective.\*

\* F.S.A. & 741.30

## **What can I do besides getting an Injunction?**

You may ask the State Attorney to file criminal charges against your abuser. You can do this by going to the police station. Be aware that even if you decide not to pursue your complaint, the state of Florida will not necessarily drop the criminal charges. Unlike an Injunction, which is considered a

private matter, a criminal charge is considered a public offense. The state may decide to prosecute the accused abuser even if you are no longer interested in taking action.

Whether or not you decide to get an Injunction, you should consider making a plan for your safety. See our [Staying Safe](#) page for more information.

## **Moving with an Injunction for Protection Against Domestic Violence**

If you are moving out of state or are going to be out of the state for any reason, your FL Injunction for Protection Order may still be enforceable.

### **• General Rules**

#### **Can I get my protection order from FL enforced in another state?**

Yes. If you have a valid Florida Injunction for Protection against Domestic Violence that meets federal standards, it can be enforced in another state. The Violence Against Women Act, which is a federal law, states that all valid protection orders (called "Injunction for Protection against Domestic Violence" in Florida) granted in the United States receive "full faith and credit" in all state and tribal courts within the US, including US territories. See the question below to find out if your Injunction qualifies.

Each state must enforce out-of-state orders, in the same way it enforces its own orders. Meaning, if your abuser violates your out-of-state Injunction, s/he will be punished according to the laws of whatever state you are in when the order is violated. This is what is meant by "full faith and credit." Did you find this information helpful?

#### **How do I know if my protection order is good under federal law?**

An injunction is good anywhere in the United States as long as:

- It was issued to prevent violent, threatening, or harassing behavior against another person, OR it was issued to forbid contact or communication with another person.
- The court that issued the order had jurisdiction over the people and case. (In other words, the court had the authority to hear the case.)

- The abuser received notice of the order and had an opportunity to go to court to tell his/her side of the story.
- In the case of ex parte and emergency orders, the abuser must receive notice and have an opportunity to go to court to tell his/her side of the story at a hearing that is scheduled before the temporary order expires. \*

**Note:** Civil protection orders that are issued in state courts may be enforced on military bases; however, military protective orders (MPOs) may not be enforced off base. It is important to check with the court clerk or a local domestic violence advocate, and see our [Military Info](#) page for more details.

\* 18 USC 2265

### **I have a temporary ex parte order. Can it be enforced in another state?**

Yes. Temporary Injunctions, called Ex Parte Injunctions in Florida, can be enforced by other states, just like any regular Injunction, as long as the abuser has been served and will have the opportunity to have a court hearing set before your Temporary Injunction expires.

**Note:** The state where you are going cannot extend your Temporary Injunction, or issue you a Permanent Injunction when the temporary one expires. If you need to extend your Temporary Injunction, you will have to contact the court in FL that issued the order and arrange to be at the hearing in person or by telephone (if that is an option offered by the court).



