

# Family Violence Protective Order

**NOTE:** Family Violence shelter or social service agency staff members designated by the court may explain to all victims not represented by counsel the procedures for filling out and filing all forms and pleadings necessary for the presentation of their Petition to the court. The clerk of court may provide forms for Petitions and pleadings to victims of family violence and to any other person designated by the superior court, and is authorized to assist victims in filling out and filing such Petitions and pleadings. The clerk is not required to provide assistance to persons in completing such forms or in presenting their case to the court, but, if given, it must be at no cost to the petitioner. The performance of such assistance does not constitute the practice of law. OCGA 19-13-3(d)

~~A Petition for Temporary Protective Order is a request to the court for protection from a family member.~~ It may be filed by a party or parties claiming the occurrence of an act of violence from such member. Forms for the Petition may be provided by the clerk of superior court. If deemed necessary to protect the petitioner, the court may order temporary relief in an Ex Parte Order, a copy of which must be immediately furnished to the petitioner. The Temporary Protective Order forms may be obtained at [www.gscca.org](http://www.gscca.org). (Click on FILE and then on FAMILY VIOLENCE FORMS.)

## Contents

- 1 Definitions and Effects
  - 1.1 Petition for Temporary Order
  - 1.2 Family Member
  - 1.3 Ex Parte Order
  - 1.4 Temporary Protective Order
  - 1.5 Temporary Protective Order Standardized Form
  - 1.6 Costs
- 2 Venue
  - 2.1 Resident Respondent
  - 2.2 NonResident Respondent
- 3 Comments

## Definitions and Effects

### Petition for Temporary Order

~~A Petition for Temporary Order is a request that the court provide protection to a person(s) from a family member for any felony or commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass. (It does not include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.)~~ OCGA 19-13-1 and OCGA 19-13-20(3)

The original Petition should be submitted to the superior court judge for a hearing within ten to thirty days. If, by local rule, the clerk does not assign judges, the clerk may aid the petitioner in scheduling an immediate hearing with the judge. (In some counties in which a judge is not present, it may be necessary for the petitioner to travel to another county in the circuit to come before the judge.) OCGA 19-13-3(c)

After a Petition for Temporary Order is filed, if the court establishes that family violence has occurred, the court may:

- Issue an Ex Parte Order to protect the petitioner. OCGA 19-13-3(b)
- Schedule a hearing within ten days, if possible, but no later than thirty days from the date of filing. OCGA 19-13-3(c)

## Family Member

A Family Member is any past or present spouse, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household. OCGA 19-13-1

## Ex Parte Order

An Ex Parte Order is an Order granted at the instance and for the benefit of one party only, without notice to any person adversely interested, to protect that party from the time it is issued until the hearing for the temporary protective order is held and a Temporary Order is issued. An Ex Parte Order may be granted when a verified Petition Seeking Relief from Family Violence alleges with specific facts that probable cause exists to establish that family violence has occurred in the past and may occur in the future. Issue and sign a Summons to the defendant and forward it with Sheriff's Entry of Service and copies of the Petition, Order, and Rule Nisi Order to the sheriff's department for service on the defendant. **The clerk shall immediately furnish the petitioner with a file-stamped copy of the Petition, Order, and Rule Nisi Order and send a file-stamped copy of the Ex Parte Order to the sheriff to be retained as long as it remains in effect. OCGA 19-13-3(b), OCGA 19-13-4(b). The clerk shall scan, index, and electronically transmit Order to the Georgia Protective Order Registry by the end of the next business day after filing the Order. OCGA 19-13-53(b)**

## Temporary Protective Order

A Temporary Protective Order is a document signed by a Superior Court Judge ordering a person who has committed family violence (the abuser) to keep away from his/her victim. It also can give the victim temporary custody of and child support for any children the victim and abuser have together, evict the abuser from the home, and order the abuser to stay away from the victim's job and/or school. A copy of the Temporary Protective Order must be transmitted to the sheriff by the clerk. The Order is effective throughout the state and must be enforced by every superior court, sheriff, and law enforcement officer. A Temporary Protective Order may remain in effect up to one year, unless the court, after a hearing, converts the Temporary Order to an order effective no more than three years or to a permanent Order. OCGA 19-13-4

## Temporary Protective Order Standardized Form

Standardized forms shall be used for the issuance of any protective order. Temporary Protective Order forms are promulgated by the Uniform Superior Court Rules and are subject to the approval of the Georgia Crime Information Center and the Georgia Superior Court Clerks' Cooperative Authority. They must contain, at a minimum, all information required for entry into the protective order registry and the National Crime Information Center Protection Order File. The forms may be obtained from the Administrative Office of the Courts, and are also available at the Georgia Superior Court Clerks' Cooperative Authority website, [www.gscca.org](http://www.gscca.org) (<https://www.gscca.org>). **NOTE:** A court may modify the standardized form to comply with the court's application of the law and facts to an individual case. OCGA 19-13-53(a)

## Costs

If the Petition is filed separately and not in combination with a divorce action, no civil action filing fee or sheriff's service fee is charged for the filing and serving of a Family Violence Petition. If the Petition is filed as part of the divorce, the civil action filing fee for the divorce is the only charge. OCGA 15-6-77(e)(4) and OCGA 15-16-21(h) Should either the Petitioner or Respondent in a Temporary Protective Order action require the services of a foreign language interpreter or sign language interpreter, reasonable fees for such interpreters shall be paid from Local Victim Assistance Program funds. OCGA 15-6-77(e)(4)

## Venue

### ~~Resident Respondent~~

~~Except for proceedings involving a nonresident respondent, the superior court of the county where the respondent resides has jurisdiction over all proceedings. OCGA 19-13-2(a)~~

### NonResident Respondent

~~For proceedings involving a nonresident respondent, the superior court where the petitioner resides or the superior court where an act involving family violence allegedly occurred has jurisdiction, where the act involving family violence meets the elements for personal jurisdiction provided for in OCGA 9-10-91(2)-(3). OCGA 19-13-2(b)~~

## Comments

Sort by date ▾

Enable comment auto-refresher

### Add your comment

---

---

---

Post comment

Retrieved from "[http://manual.gaclerks.org/index.php?title=Family\\_Violence\\_Protective\\_Order&oldid=14737](http://manual.gaclerks.org/index.php?title=Family_Violence_Protective_Order&oldid=14737)"

- 
- This page was last edited on 10 September 2018, at 19:07.