

FILING A PETITION FOR AN INJUNCTION FOR PROTECTION (RESTRAINING ORDER)

FILING A PETITION FOR INJUNCTION FOR PROTECTION

If you have been a victim of domestic violence, stalking, repeat, dating or sexual violence, you may file a Petition for an Injunction for Protection (restraining order/protective order) at the Broward County Central Courthouse, West Wing, 201 Southeast 6th Street, Room 02-140, Fort Lauderdale, Florida. The hours to file a Petition for Injunction at the Central Courthouse are 8:30AM through 5PM. In addition, you may file a Petition for Injunction between the hours of 8AM and 2PM at the West Regional Courthouse, 100 N. Pine Island Road, Room 180 in Plantation. Emergency/After-hours restraining orders are available after 5PM, on weekends, holidays, or other courthouse closures like hurricanes. To access the emergency, after hours procedures you should contact the Women In Distress Crisis Line at 954-761-1133. They will ask you questions to determine if you are in imminent danger to qualify for an after-hours Petition for Injunction for Protection.

The Broward County Clerk of Court's Domestic Violence Department will help you fill out the proper forms. You may see the forms ahead of time (download and begin filing them out if you'd like) on the Broward Clerk of Court site, <https://www.browardclerk.org/Divisions/DomesticViolence#FormsAndSelfHelp>. There are no court fees to file a restraining order. If you parked in the Central Courthouse garage, located at 540 SE 3rd Avenue, you should bring your ticket with you and ask the Domestic Violence Clerk to validate your parking in room 02-140 on the second floor. You will need to bring your picture identification, and if possible, a picture of the abuser. Bring any important dates, police reports, pictures, text messages, emails, call logs, notes, information about weapons, or any other evidence regarding the abuse. You should bring any information you have about the abuser such as the home or work address, relative's address where the abuser may stay, birthdate, social security number, vehicle information, work hours, and anything that will help law enforcement serve the abuser with paperwork. You are the Petitioner and your abuser is the Respondent.

Type of Petition to File

- **Domestic Violence** - **If you are, or were ever married, previously married, have a child in common, lived together while in a relationship/as if a family, and/or related by blood or marriage, as described below you should file for an Injunction for Protection Against Domestic Violence, and the law in Florida requires you to prove that-**
 "Domestic Violence"--§741.28 - the Respondent is the spouse or former spouse of the petitioner or is any other person related by blood or marriage to the petitioner or is any other person who is or was residing within a single dwelling unit with the petitioner, as if a family, or is a person with whom the petitioner has a child in common, regardless of whether the petitioner and respondent are or were married or residing together, as if a family.
 You will also need to prove that-
 "Domestic Violence"--§741.28 - you are a victim of domestic violence (battery, aggravated battery, assault, aggravated assault, sexual battery, sexual assault, stalking, aggravated stalking, kidnapping, false imprisonment or any other criminal offense resulting in physical injury or death of one family or household member by another family or household member) **or** you have reasonable cause to believe you are in imminent danger of becoming the victim of domestic violence.
- **Dating Violence** - **If you have been in a dating relationship within the last 6 months, as described below, then you should file an Injunction for Protection against Dating Violence, the law in Florida requires you to prove that-**
 "Dating violence" --§784.046-- you are a victim of violence between individuals who have or have had a continuing and significant relationship of a romantic or intimate nature. The existence of such a relationship shall be determined based on the consideration of the following factors:
 1. A dating relationship must have existed within the past 6 months;
 2. The nature of the relationship must have been characterized by the expectation of affection or sexual involvement between the parties; and

3. The frequency and type of interaction between the persons involved in the relationship must have included that the persons have been involved over time and on a continuous basis during the course of the relationship. "Violence" --§784.046-- means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

- **Stalking - If you are not in a relationship with the other party as described above (not a domestic or dating relationship) and are the victim of stalking or harassment then you may file for an Injunction for Protection Against Stalking, the law in Florida requires you to prove that-**

"Stalking"--784.048 - the Respondent willfully, maliciously, and repeatedly follows, harasses, or cyberstalks the Petitioner.

(a) "Harass" means to engage in a course of conduct directed at a specific person which causes substantial emotional distress to that person and serves no legitimate purpose.

(b) "Course of conduct" means a pattern of conduct composed of a series of acts over a period of time, however short, which evidences a continuity of purpose. The term does not include constitutionally protected activity such as picketing or other organized protests.

"Cyberstalk" --784.048 -- the Respondent willfully, maliciously, and repeatedly follows, harasses, or cyberstalks

1. To engage in a course of conduct to communicate, or to cause to be communicated, directly or indirectly, words, images, or language by or through the use of electronic mail or electronic communication, directed at or pertaining to a specific person; or

2. To access, or attempt to access, the online accounts or Internet-connected home electronic systems of another person without that person's permission, causing substantial emotional distress to that person and serving no legitimate purpose.

- **Sexual Violence - If you are not in a relationship with the other party as described above and are a victim of sexual battery, then you may file for an Injunction for Protection Against Sexual Violence and the law in Florida requires you to prove that-**

"Sexual violence" --784.046--you are the victim of sexual violence which means any one incident of:

1. Sexual battery, as defined in chapter 794.

2. A lewd or lascivious act, as defined in chapter 800, committed upon or in the presence of a person younger than 16 years of age.

3. Luring or enticing a child, as described in chapter 787.

4. Sexual performance by a child, as described in chapter 827; or

5. Any other forcible felony wherein a sexual act is committed or attempted.

*If you are the parent or legal guardian of a minor child who is living at home who is the victim of sexual violence, you may file a petition for an injunction for protection against sexual violence on behalf of the minor child if:

1. The person has reported the sexual violence to a law enforcement agency and is cooperating in any criminal proceeding against the respondent, regardless of whether criminal charges based on the sexual violence have been filed, reduced, or dismissed by the state attorney; or

2. The respondent who committed the sexual violence against the victim or minor child was sentenced to a term of imprisonment in state prison for the sexual violence and the respondent's term of imprisonment has expired or is due to expire within 90 days following the date the petition is filed.

- **Repeat Violence - If you are not in a relationship with the other party as described above and are the victim of two or more acts of violence or stalking (at least one of the incidents within the past 6 months), then you may file for an Injunction for Protection Against Repeat Violence, the law in Florida requires you to prove that-**

"Repeat violence" --784.046--you are a victim of repeat violence which means two incidents of violence or stalking committed by the Respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the Petitioner or the Petitioner's immediate family member.

"Violence" --§784.046-- means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, or false imprisonment, or any criminal offense resulting in physical injury or death, by a person against any other person.

Petition for Injunction

The Petition requires you to write out everything that the other person did to you. You will need to write down the most recent violence that occurred, when it occurred, and be very specific about the incidents of violence, and/or stalking. Be prepared to also write down specific examples of past violence and when it happened. **Any, and all, incidents you would like the Judge to consider for the Temporary Injunction and the Final Hearing for a Final Judgment of Injunction for Protection must be written about in your petition** or else you may not be able to speak about them in court. You may request additional pages to write on if necessary. When your paperwork is completed, it will be reviewed by a Judge. You will be given the option to wait, come back to pick up the decision, or have it mailed. We suggest you wait or pick up your paperwork. The mail may have delays.

AFTER FILING A PETITION FOR INJUNCTION: THE DECISION

The Judge may defer, deny, or grant your Petition.

Petition Deferred: Order Setting Hearing on Petition

If your petition for the restraining order is deferred, you will receive an Order Setting a Hearing on Petition. A hearing will be set, without a Temporary Injunction being issued. There will be no Temporary Injunction in place and no protection offered. The Court will consider whether an injunction should be entered at the hearing. If you receive an Order Setting Hearing and you believe you have additional incidents or further details to add to your Petition, you may file a Supplemental Affidavit in support of your Petition as soon as possible (usually within 3 days). It will be reviewed with your original Petition and a decision will be made if a Temporary Injunction should be granted. If a Temporary Injunction is still not entered after filing a Supplemental Affidavit, you will be given the option to withdraw your Petition before your abuser is served with your allegations, or you may opt to have the hearing without any temporary protection. If you choose to have a hearing set, you will receive an Order Setting a Hearing on your Petition and your Petition and Order Setting a Hearing on Petition will go out to law enforcement to serve on the Respondent.

Petition Denied: Dismissal

If your petition for the restraining order is denied, the Judge found the evidence presented in the petition insufficient to allow the Court to issue an Injunction for Protection. You will receive an Order Denying Petition for Injunction. You may also file a Supplemental Affidavit if your Petition is denied and try to obtain an Order Setting a Hearing or Temporary Injunction issued.

Petition Granted: Temporary Injunction Granted and Final Hearing Set

If your Petition for a restraining order was granted, your Temporary Injunction is in effect until an assigned hearing date and time, usually set within fifteen (15) days. Your Petition along with the Temporary Injunction will go out with the Sheriff for service on the Respondent. To have the Temporary Injunction extended for a longer period of time, you must attend the court hearing. The hearing time, date and courtroom number can be found on the first page of your Temporary Injunction or second page of your Order Setting Hearing on Petition. If you do not attend this hearing, or if you arrive late to the hearing, your restraining order will probably be dismissed.

If the other party has not been served, you should still attend the hearing so the Judge may extend the Temporary Injunction and allow for more time to serve the other party. Make sure you bring your emergency service packet to court with you so that it may be updated if the Temporary Injunction is extended or so that it may be served on the Respondent if they appear. Service (notice to the Respondent) is important because although your Temporary Injunction is valid when signed by a Judge, it is not enforceable until the Respondent has been properly served his/her/their copy. At the hearing, the Judge will hear from you and your witnesses and the Respondent and the Respondent's witnesses. The Judge will consider what you and your witnesses say (testimony) and any other evidence you present to make a decision. If your Temporary Injunction is denied, or dismissed, you may always file a new petition for injunction if a new incident were to occur.

**Coast to Coast Legal Aid of South Florida may be able to
represent you at your Final Hearing for Injunction for Protection
or advise you about filing a Petition for an Injunction.**

To apply, please call 954-736-2400.

Please see our website for more information at www.CoastToCoastLegalAid.org.