

PEACE ORDER OR PROTECTIVE ORDER . . . WHICH ONE?

Peace and Protective Orders are civil orders issued by a judge that order one person to refrain from committing certain acts against others. The relationship between the respondent (person alleged to have committed the prohibited act) and the petitioner (person seeking protection) determines the petition to be filed. Protective Orders generally apply to people in domestic relationships. Peace Orders apply to other persons.

You cannot qualify for both. Please review carefully the following checklists to determine the correct petition to file.

If you are filing the petition for yourself, do any of these apply to you?

- I am the current or former spouse of the respondent.
- I have had a sexual relationship with the respondent and have resided with the respondent in the home for a period of at least 90 days within the last year.
- I am related to the respondent by blood, marriage, or adoption.
- I am the parent, stepparent, child, or stepchild of the respondent or person eligible for relief, and I have resided with the respondent or person eligible for relief for 90 days during the past year.
- I have a child in common with the respondent.
- I have had a sexual relationship with the respondent within one (1) year before the filing of the petition.
- Within six (6) months before the filing of the petition the respondent committed rape or a sexual offense or attempted rape or sexual offense against me.

*If you checked any of the boxes above, you would file for a **Protective Order**. If you did not, you would file for a Peace Order.*

If you are filing the petition for a minor child, you may be eligible for a Protective Order if any of the following apply to the minor child:

- The minor child is the current or former spouse of the respondent.
- The minor child has had a sexual relationship with the respondent and has resided with the respondent in the home for a period of at least 90 days within the last year.
- The minor child is related to the respondent by blood, marriage, or adoption.
- The minor child is the stepparent, child, or stepchild of the respondent or person eligible for relief and has resided with the respondent for 90 days during the past year.
- The minor child has a child in common with the respondent.
- The minor child has had a sexual relationship with the respondent within one (1) year before the filing of the petition.
- Within six (6) months before the filing of the petition the respondent committed rape or a sexual offense or attempted rape or sexual offense against the minor child.

*If you checked any of the boxes above, you would file for a **Protective Order**.*

Note: To be eligible to file a Petition for Protective Order on behalf of a minor child or vulnerable adult (an adult who lacks the physical or mental capacity to provide for their daily needs), you must either (1) be related to the minor child or vulnerable adult by blood, marriage, or adoption, or (2) reside in the same home with the minor child or vulnerable adult.

WHAT DO YOU HAVE TO PROVE?

Once you determine the type of order for which you may qualify, you then must prove that one of the following acts occurred. Acts marked with an asterisk (*) are covered only by peace orders and not by protective orders.

- an act that caused serious bodily harm
- an act that placed the petitioner in fear of imminent harm
- assault in any degree
- rape or sexual offense
- attempted rape or sexual offense
- false imprisonment
- criminal stalking
- revenge porn
- criminal harassment *
- criminal trespassing *
- malicious destruction of property *
- misuse of telephone facilities and equipment *
- misuse of electronic communication or interactive computer service *
- visual surveillance *



Peace and Protective Orders

assault

fear of harm
trespassing

harassment



bodily
harm

stalking

destruction
of property

How to File for a Peace or Protective Order

domestic violence

sexual assault

attempted rape

spousal
abuse

child
abuse



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HOW TO APPLY FOR AN ORDER

Step 1: Complete the correct petition

- The petitions (forms) for protective orders can be obtained from any circuit or District Court clerk or District Court commissioner.
- Petitions for peace orders must be obtained from a District Court clerk or commissioner.
- All forms are available at: mdcourts.gov/forms.

Step 2: File the petition

- During normal business hours, file the petition with a circuit or District Court clerk (District Court for peace orders), against a person 18 years or older.
- A petition for a protective order may be filed electronically from specific locations such as a hospital, a vulnerable adult program, a child advocacy program, or an assistance program for domestic violence, sexual assault, or human trafficking (see FL § 4-505.1). For electronically filed protective order petitions, the petitioner will virtually participate in the Temporary Order hearing by video conference.
- For information on filing a petition against a person younger than 18, contact the Maryland Department of Juvenile Services (DJS).
- Once the petition is filed, you will be directed into a courtroom as soon as a judge is available to hear your case.
- When courts are closed, District Court commissioners may issue Interim Peace and Protective Orders to last until a judge holds a hearing on the temporary order.
- An interim order goes into effect when a law enforcement officer serves the respondent.
- Visit mdcourts.gov/district/directories/courtmap for court/commissioner locations.
- By filing a peace order petition, an employer may request the court's relief from a respondent who commits qualifying acts against the petitioner or against the petitioner's employee at the employee's workplace.

Step 3: Appear for a temporary hearing

- When you appear before a judge, you will be required to answer questions under oath. If the judge finds reasonable grounds to believe that the respondent committed the acts alleged in the petition, (and in the case of a peace order, is likely to do so again) a temporary order is granted.
- The order goes into effect once a law enforcement officer serves the respondent and generally lasts for seven (7) days unless extended by a judge.

Step 4: Appear for a final hearing

- A final hearing is usually scheduled within seven (7) days after the order is served. At the hearing, both parties may present evidence. However, if the respondent does not attend, the judge may still grant a final order if at the trial the judge finds by a preponderance of the evidence that the respondent committed the alleged act against the petitioner, as defined under the law, (and in the case of a peace order, is likely to do so again). Instead of a trial, the respondent may consent to the entry of a final order.
- A Final Protective Order may be granted for as long as one (1) year. The court for good cause may extend the term of the Final Protective Order for an additional six (6) months after a further hearing.
- A Final Protective Order may be granted for as long as two (2) years if:
 - the same person eligible for relief previously obtained a Final Protective Order against the same respondent AND
 - the prior order lasted for at least six (6) months AND
 - within one (1) year of the expiration of the order,
 - the respondent commits an act of abuse against the person eligible for relief OR
 - the respondent consents to the order.
- The court shall issue a Permanent Protective Order if:
 - requested by the person eligible for relief against an individual who was the respondent in a previously issued Interim, Temporary, or Final Protective Order; AND
 - the respondent was convicted and sentenced to serve a term of imprisonment of at least five (5) years and served at least 12 months of the sentence for:
 - the act of abuse that led to the issuance of the Interim, Temporary, or Final Protective Order; OR
 - committing an act of abuse against the person eligible for relief during the term of the Interim, Temporary, or Final Protective Order.
- A peace order may last up to six (6) months and can be extended for an additional six (6) months for good cause, after notice to parties and a hearing.

WHAT WILL THE ORDER DO?

Peace and protective orders are intended to provide protection for the petitioner and other individuals named in the order. The respondent may be ordered to:

- stop threatening or committing abuse
- stay away from the petitioner's home, place of employment or school
- have no contact with the petitioner or others

A protective order may also:

- award temporary use and possession of the home to the petitioner
- award temporary custody of children to the petitioner
- award temporary financial support
- require the respondent to surrender all firearms and refrain from possession of firearms for the duration of the order. (State law requires the respondent to surrender all firearms to a law enforcement agency if a Final Protective Order is issued.)
- award temporary possession of any pet of a person eligible for relief or respondent
- order any other relief that the judge determines is necessary to protect a person eligible for relief from abuse (applies to a Final Protective Order, only)



CAN COURT RECORDS FOR PROTECTIVE ORDERS OR PEACE ORDERS BE SHIELDED FROM PUBLIC VIEW?

- The petitioner, the petitioner's employee, or the respondent may file a written request to shield (to remove from public inspection) the court records relating to a Protective Order or a Peace Order if:
 - (1) the petition for a Protective Order or the petition for a Peace Order is denied or dismissed at the interim, temporary, or final hearing; or
 - (2) the respondent has consented to the entry of a Protective Order or a Peace Order.
- A request for shielding may not be filed earlier than three (3) years after the denial or dismissal of the petition or after the consent expires unless the requesting party files a General Waiver and Release form, (CC-DC-077), which is a release of all the requesting party's claims for damages relating to this proceeding and any tort claims that may arise out of this proceeding. The court will schedule a hearing on the request to shield, after which a judge will rule on the request.

FREQUENTLY ASKED QUESTIONS

Is there a deadline for filing? A petition for a peace order must be filed within 30 days of the act described within the petition. There is no specified time frame for filing a protective order.

Can criminal charges also be filed? Peace and protective orders are civil orders and are not criminal charges. If you wish to file for criminal charges, see a District Court commissioner or a State's Attorney.

What happens if an order is violated? Violation of an order may result in a finding of contempt, mandatory arrest, criminal prosecution, imprisonment, or fine.

Do I need a lawyer? An attorney may be helpful in advising you about your case and representing you in court. However, you are not required to have an attorney.

What happens if the court closes unexpectedly on the day your order expires? For Interim Protective or Peace Orders - the order is in effect until the next day the court is open. For Temporary Protective or Peace Orders - the order is in effect until the second day the court is open.