

FAMILY VIOLENCE PROTECTIVE ORDERS

A Self-Help Manual for Victims of Family Violence ©

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“...and justice for all.”

**Updated August 2018
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This manual format was originally written for and distributed by the American Bar Association, Young Lawyers Division through the Delivery of Legal Services to Women Committee. This Manual is not meant to be individual legal advice and cannot answer every question because some procedures are different in different counties. You should obtain an attorney, if possible.

Family Violence Protective Orders Checklist

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<https://csconlinecalc.georgiacourts.gov/frontend/web/index.php>

State Bar of Georgia Worksheet Helpline - Volunteer Lawyers can assist the caller to prepare the Child Support Worksheets. Call (404)526-8609 for more information

A. INTRODUCTION AND DEFINITIONS

INTRODUCTION - The Family Violence Act, O.C.G.A. § 19-13-1 through 19-13-4, is a law to protect people who are abused by present or past spouses, 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.

This manual tells you generally how to ask the court for a family violence protective order. It explains how to decide if the law applies to you and what all the terms used in family violence cases mean. This manual tells you how to fill out the necessary forms, how to file the forms, and what happens at a hearing.

The official Georgia TPO forms are in the Georgia Superior Court Clerk's website at <https://www.gsccca.org/>. A copy of those forms can be printed off or filled out online. First, you must prepare the petition and ex parte protective order. At the time you file your petition, the judge may give you immediate protection by signing the emergency protective order called an ex parte order. If the judge signs an ex parte protective order, the judge will then set up a hearing to be held within thirty (30) days from the time the order is signed. If the abuser is avoiding service the judge can extend the TPO for 30 additional days. At the second hearing, the judge will hear witnesses and take evidence. The abuser can also testify and ask you questions. The judge can then sign a protective order which can last up to twelve months.

The law allows people to represent themselves (pro se) in court to get a protective order. Your legal case can get complicated, especially if you have children and file for custody and support. **You should always try to have a lawyer if you can.** The Family Violence Act also allows family violence agencies or social services agencies, designated by the court, to help you fill out and file papers for a family violence protective order.

Family violence agencies can be contacted at 1(800)-33HAVEN or 1 (800) 334-2836.

DEFINITIONS - Following are some definitions of terms that may be helpful.

Petitioner - the person who is asking the court for protection from family violence. The victim of abuse who is filing these papers.

Respondent - the abuser, the person who committed the violent act.

Petition - The Petition for a Family Violence Act Protective Order are the papers that tell the court about the violence and asks for protection. This starts the lawsuit.

Filing - giving the Petition (court papers) to the clerk of the court.

Hearing - appearing in court before a judge and telling about the violence and why you need help from the court.

Ex parte (pronounced X- PARTay) - the judge hears only one side. The first hearing is usually ex parte, meaning the judge only hears your side. In the second hearing that occurs within 30 days of the filing of the Petition, both the Petitioner and the Respondent (the abuser) can be present in court.

Pro se - representing yourself in court; not having a lawyer. Everyone has a right to represent themselves in court on their own case.

Superior Court - there are many types of courts (for example, Probate, Juvenile, State). The Superior Court is where a Petition for a Family Violence Order must be filed.

Clerk - the person who handles the filing of legal papers. Find the Superior Court Clerk to ask about which judge hears Family Violence cases and to file the papers.

Notary Public - person who witnesses (notarize) signatures. Generally, you can find a notary public at the clerk's office, banks, and Legal Services' offices.

She or he - Abusers can be male or female. In opposite sex cases, in about 90% to

85% of the cases, the abuser is male. Family violence can occur between same sex or opposite sex individuals. This manual will use she for the victim and he for the abuser, although the rules apply to both genders.

B. WHAT THE LAW SAYS and WHO THE LAW PROTECTS

The Family Violence Act is at O.C.G.A. § 19-13-1 through 4 and is the law that covers the case you are filing. It is available to read at law libraries and currently at:

<http://law.justia.com/codes/georgia/2010/title-19/chapter-13/article-1/19-13-1>.

(1 through 4). Before you prepare and file a family violence case, you must decide if the law applies to you and which county has jurisdiction. The Family Violence Act does not apply to all persons and all acts of violence. There are two tests under this law. They are the relationship test and the violence test.

A. The Relationship Test - The violence must be between people who have some relationship now or in the past. If you can answer yes to any of the following questions, then you meet the relationship test.

1. Is the violence between you and your husband or wife or past husband or wife?
2. Is the violence between you and the other parent of your child?
3. Is the violence between you and your parents, stepparents/foster parents?
4. Is the violence between you and your children, stepchildren/foster children?
5. Is the violence between you and a person who is living or formerly lived in the same household?

B. The Violence Test - The violent act must be a certain type of act. If you can answer yes to any of the following questions, then you meet the violence test.

1. Is the act a felony? (A felony is a crime defined by state law as a felony. Some

- examples are homicide, attempted homicide, rape, arson.)
2. Is the act a battery or simple battery?
(When a person intentionally and wrongfully touches another, or causes physical harm to another.)
 3. Is the act an assault or simple assault?
(When a person attempts to injure another, or put another person in reasonable fear of being hurt.)
 4. Is the act stalking? (When a person follows or contacts another for the purpose of harassing and intimidating.)
 5. Is the act criminal damage to property?
(When a person illegally damages property.)
 6. Is the act unlawful restraint? (When a person illegally arrests, confines or detains another person.)
 7. Is the act a criminal trespass? (When a person damages property of another valued at \$500.00 or less, or when a person knowingly or maliciously interferes with the property of another, or when a person comes onto the property of another without permission to do so.)

If you answered yes to one of the questions in the relationship section **and** you answered yes to one of the questions about the violence, then the law may protect you.

A person must be 18 or older to file on their own. If you are 18 years of age or older and you are the victim of family violence, you can file the petition. If you are under 18 and you are the victim of violence, you must find someone who is 18 years of age or older to file the petition for you. The law will not protect you if the violent act was reasonable discipline by a parent to a child.

Where to File. Jurisdiction is the place and the court where you file your Family Violence Protective Order. You file family violence cases in the county where the Respondent/abuser lives if the abuser lives in Georgia. If the abuser lives outside of

Georgia, you can file in the county where you live or where the abuse occurred.

C. PREPARING A PETITION FOR A FAMILY VIOLENCE PROTECTIVE ORDER

1. The Petition – Form A. The first form you must complete is a Petition for Temporary Protection Order. Look at it as you go through the following instructions. The fillable pdf forms allow you to fill in the form online at: <https://www.gsccca.org/file/family-violence-forms>. You can also refer to Form A at the end of this manual.

Heading - The heading identifies the case and the parties. Usually the papers must be filed in the county where the abuser/respondent lives. A family violence proceeding involving an abuser who does not live in Georgia can be filed in the county where the petitioner/victim lives or in the county where the violence took place.

In the first blank, write in the county of the court in which you are filing.

On the petition, on the left hand side put in your name. You are the petitioner. The respondent is the person who committed the violent act. On the right hand side of the page, see the words "Civil Action File No. _____." **Do not** put a number in the blank. When you file the papers with the clerk, the clerk will fill in a number. Then make sure that the number is placed everywhere it says Civil Action File No. on the orders (on the top of each page.)

Facts – This is where you will tell the court about your situation. Each paragraph is numbered. Some of the paragraphs tell the judge information which must be included. Some of the paragraphs can be checked if they apply to you, other paragraphs may not

apply to your case and should not be checked. For example, if you do not have children or the abuser has no legal claim to the children, do not check these paragraphs. If you are not sure about a fact in one of your answers, make sure that your answer is written as “may be,” “about,” “approximately,” etc. You never want to mislead the court.

Paragraph One: Fill in the blank with the name of the county where you live. Also tell the court if you are an adult over 18. Fill in the information about your year of birth, sex, and race. If you are a minor, someone over 18 can file for you.

Paragraph Two: You must tell the court what county the abuser lives in and the address at which he can be served. (Being “served” means being presented with a copy of the petition and the court order – this is usually done by a sheriff’s deputy.) If the abuser lives out of state, fill in Paragraph 2a. Strike out the paragraph that does not apply.

Paragraph Three: Tell the court how you are related to the abuser. Check at least one box.

Paragraph Four: Describe the violent acts. In the first blank tell the court when the most recent violent act occurred. Tell the court what happened. You should include the actual act (for example, hitting, beating with fists, throwing a lamp at you, choking, twisting legs and arms, etc.), the extent of injury (for example, breaking arms or legs, deep cuts, severe bruises, loss of teeth), and any medical attention you got. Also, tell the court if the respondent/abuser is an alcoholic, has weapons, or uses drugs, and if you called the police or the respondent was arrested.

Paragraph Five: If this is not the first time respondent has abused you, tell the court about another time(s), or give a brief description of the history of abuse.

Paragraph Six: States that it is likely that future acts of violence will be committed against you and your children if relief is not granted. **CHECK ONLY THE REMAINING PARAGRAPHS THAT APPLY TO YOUR CASE.**

Paragraph Seven: Tell the court how many children you have that the abuser can make a legal claim for and give their names and ages. Tell the court where your children have lived for the past 5 years.

Paragraph Eight: If you and the respondent are not married the abuser may or may not have legal rights to custody or visitation. Tell the court if he has legitimated the children. If you are not married, the father must petition the court to legitimate the children (have them declared his legal children) to have any custody or visitation rights. You have to be notified of this action. Until this is done the mother has sole control over the children. If you are married to the abuser or he is not the children's father, do not check this paragraph.

Paragraph Nine: Tell the court if there are any other lawsuits about your children or people with claims for custody of your children.

Paragraph Ten: If you have minor children who live with you that need protection, but are not the abuser's children, tell the court their names and ages.

Paragraph Eleven: Tell the court if the abuser has a criminal history or a history of violence toward others.

Paragraph Twelve: If you do not want the abuser to know where you are, you must ask the court to not release your address and tell the court why. Do not put your secret address in the Petition if you do not want the abuser to know where you are. You will be required to provide another address where you can receive mail to get notices.

Paragraph Thirteen: If you want the Court to award you the sole use and temporary possession of the family residence, check and complete this paragraph.

Paragraph Fourteen: If the respondent is the parent of your minor children and you need money to be able to pay for food, clothing, rent, and other expenses for you and the minor children, check this paragraph. Courts may award support or may not for this short time before the 12 month TPO hearing.

Paragraph Fifteen: If the respondent is your spouse and you need or will need money from him to pay for your living expenses, check this paragraph.

Paragraph Sixteen: This paragraph states who has current physical custody of the children. Check this paragraph if you want to be awarded custody of the children.

Paragraph Seventeen: If the respondent has taken things of yours or has taken any joint property you would like returned, check and fill in this paragraph.

REQUEST FOR RELIEF: Paragraph (a) asks that the court set a hearing. Paragraph (b) asks the court to serve/give copies of the papers to the abuser. Paragraph (c) asks the Court to direct law enforcement to enforce the Order. Paragraphs (d, e, and f) ask the court to order the respondent to stop abusing you, and for a restraining order preventing the respondent from contacting you or coming around you (**the judge will fill in the yards to stay away, for example: 200 yards.**) Paragraph (i) requests an Ex Parte Protective Order that orders most of the things you check off below. **Check the specific help that you need in your case and your situation.** You should ask for everything you might need. If you do not ask for it in the petition the court may not grant it. Make sure you fill in all the information needed in the paragraphs you check.

- The **first** paragraph without a number asks the court to award you custody.

- The **second** paragraph asks the court to have your abuser removed from the residence you share together.
- The **third** paragraph asks the court to give you the sole use of the place you're living in and to give you possession of all the property at that address except your abuser's clothing. It also requires law enforcement to be present when you go back home and when he collects his things. The blank should be filled in with either the word "police" or the word "sheriff."
- The **fourth** paragraph asks the court to order your abuser to pay for a new place for you to live if you don't want to continue to live in the house you've shared.
- The **fifth** paragraph asks the court to order your abuser to stay away from your home, work, and the children's school.
- The **sixth** paragraph asks the court to limit visitation. Think about this provision. If you don't think your children are safe with your abuser, you should ask the court not to order any visitation. If you want the children to have some contact with your abuser, then you need to think about what the court can order to ensure that the children are safe. For example, should someone else be with the abuser and children at all times? Who? Where?
- The **seventh** paragraph asks for child support.
- The **eighth** paragraph asks for support for your expenses (something like alimony).
- The **ninth** paragraph asks for attorney fees. If you are not sure whether you will have an attorney, you can go ahead and check this box. If you don't get an attorney, you can tell the court later that you weren't able to get an attorney to

help you, so that you no longer want to pursue that request.

- The **tenth** paragraph asks the court not to tell anyone where you are currently living.
- The **eleventh** paragraph asks the court to order the respondent not to sell, hock, mortgage, or give away any of your property. Check this if the abuser has access to any property that belongs to you.
- The **twelfth** paragraph asks the court to order the respondent not to disconnect your utilities, interfere with your mail, or cancel any insurance that covers you or your children.
- The **thirteenth** paragraph asks the court to give you possession of the car. Fill in as much information about the car as you have available.
- The **fourteenth** paragraph asks the court to allow you to collect your property from the abuser's house and to order law enforcement (fill in whether it is the police department or the sheriffs' department) to protect you while you do this.
- The **fifteenth** paragraph asks the court to order your abuser to be evaluated for possible treatment for drugs or alcohol. If you think your abuser might have a drug or alcohol problem, consider checking this request.
- The **sixteenth** paragraph asks the court to send your abuser to a batterers intervention class to learn the consequences to him of further abusive. This should be ordered by the judge unless there's a good reason not to require the abuser to go to these classes. The classes are usually once a week for 24 weeks.
- The **seventeenth** paragraph asks the court to order your abuser to return specific items to you, such as car keys, your driver license or passport or other important

documents, checks or credit cards, anything he has of yours that you need to be returned immediately.

- The **eighteenth** paragraph asks the court to order your abuser to pay for any damage he has done to your things. This would include damage to your apartment that you will have to pay to the landlord. This would also cover medical expenses you have due to the abuse.

In the last paragraph you can request other things that are not mentioned in the form, such as having the Respondent pay the rent or insurance. If the Respondent has a gun, you should think seriously about asking the judge to order that the “Respondent shall not possess a firearm while any protective order is in effect.” You can also ask the court to order your abuser to turn over the gun(s) or other weapons to the law enforcement officer when he is served with the court papers and to hold the gun(s) or other weapons for the period of the order.

SIGNATURES - You must sign the petition. Under your signature, print your name and give an address and, if you have one, telephone number. Some people may not want the abuser/Respondent to know where they are living because they may fear further harm. If this is the case, you should use an address where you can reliably receive mail. You do not have to give an address, but the court may need an address that they can send out notices about hearings or other information about your case.

VERIFICATION: The papers must be signed in front of a notary public. You are swearing that the facts you have stated in your petition are true and correct. If you are not sure about the facts in your answer make sure the statement is written as “may be,” “about,” “approximately,” etc.

ASSISTED BY: If someone assists you with this form and in filing it she must fill in this section. **RESPONDENT IDENTIFYING FACT SHEET:** Fill in as much information as you can. This is identifying information that law enforcement can use to identify the abuser. It is important to at least enter either the SSN or the date of birth. The Clerk of Court will remove this page from the court file after you file it.

G. PREPARING THE EX PARTE PROTECTIVE ORDER – FORM B

Next, you must prepare the order which you will ask the judge to sign after the first emergency (ex parte) hearing. Take it with you when you file your petition. The order will list the things you asked the court to do immediately. It will last only until the next hearing within 30 days. It may not cover all the issues. There is a Family Violence Ex Parte Protective Order form online at <https://www.gscca.org/file/family-violence-forms>.

[Form B] HEADING - Prepare the heading just as you did for the Petition for Protective Order. Fill in the Civil Action File No. with the number the clerk gave to the Petition. Do not fill out the ORI section, the clerk will do that later.

THE EX PARTE PROTECTIVE ORDER – You can begin to fill out the form, but the judge must sign the form for it to be valid. Put in the county name, the names of the parties and the civil action number on the order. (You can hand-write in the civil action number when you receive it from the Clerk.)

Each paragraph is numbered in the Ex Parte Protective Order. **Paragraph 1** orders that the case be filed by the clerk. **Paragraph 2** reminds law enforcement that this order is enforceable throughout the state. **Paragraph 3** orders law enforcement to serve

the Respondent. **Paragraph 4** orders the Respondent to appear in court for a hearing. The judge or the Clerk will fill in the date and time. **Paragraph 5** and **6** order the abuser to stay away from you and your children. **Paragraph 7** states that the court determined that it had jurisdiction over the parties and the subject matter of the case, and that this order is valid and enforceable in every state and jurisdiction in the United States.

From **paragraph 8** on to the end you must circle the blank next to each paragraph that you have asked the Court to award you in your petition. This is to help the judge determine what you have requested. If the judge agrees that you should be temporarily awarded these then he/she will initial the paragraph. At the ex parte hearing, the judge may or may not award the things you requested. The judge may wait until the second hearing to consider awarding all that you requested. Only those paragraphs that are initialed by the judge shall apply.

Paragraph 8 gives you temporary sole use of the family residence; you should fill in the address if you want this. **Paragraph 9** orders the Respondent to leave the family residence immediately. **Paragraph 10** orders the Respondent to provide suitable alternative housing by a certain date. **Paragraph 11** orders your address to be kept confidential. **Paragraph 12** orders the Respondent to stay away from where you live and work. You should fill out the address of your home and work if the judge has agreed to this paragraph. Do not fill in the address of your residence if you are asking the Court to keep this confidential. In **paragraph 13** the judge will fill in the number of yards, such as 100 yards. **Paragraph 14** orders the Respondent to have no contact with you, even through a third party. **Paragraphs 15, 16, and 17** deal with custody, child support, and support for you. In paragraph 15, you should fill in the name(s), year(s) of birth and

sex(es) of the child/ren. The judge will fill out the paragraphs 16 or 17 on support if she/he decides to award support at the ex parte hearing. **Paragraph 18** allows the Respondent to get his clothing and personal items if accompanied by law enforcement. **Paragraph 19** restrains you and/or the Respondent from getting rid of any of property. **Paragraph 20** restrains you and/or the Respondent from canceling or changing the utilities or health, auto, or life insurance. **Paragraph 21** can give the use of the vehicle requested; fill out the vehicle information. **Paragraph 22** allows you to remove certain things from the home if you have not asked for the Respondent to be removed or if the judge has not granted you use of the family home. **Paragraph 23** orders the Respondent to return those items you have requested; fill out the requested items. **Paragraph 24** will be completed by the judge and can cover other issues not previously addressed in the order. If you want the judge to restrict the abuser from having firearms, or order the abuser to turn over guns to law enforcement, write that into the order at **paragraph 24** and ask the judge to initial it.

The notice to Respondent does not require any action. Where it says “assisted by” an advocate can put their name. Finally, fill out the Respondent’s and Petitioner’s Identifying Information page. The Clerk will remove that page from the public record after you file it.

H. PREPARING FOR THE HEARING

After you have the completed papers, you are ready to file your Petition. Make sure you have the following papers with you:

1. Petition for Temporary Protective Order (the original and 2 copies) make sure that the

Petition is signed and notarized; (Form A)

2. Family Violence Act Ex Parte Protective Order; (Form B) If you plan to request financial support you may need the Child Support Worksheet (if you have children and ask for support at the initial hearing). (Form D) (Many Petitioners do not ask for support at this initial hearing and many courts do not award child support at this first hearing.)

At this first ex parte hearing only your side is presented and it is here that you will tell the judge your story. Your abuser will not be there for this hearing. First, call the Superior Court clerk's office to ask if the judge is available for a family violence ex parte hearing. Also ask if you are to go first to the clerk's office or directly to the judge. In some counties the judge is available only on certain days of the week or you may have to go to another court handling hearings that day.

Next, go to where the clerk's office directed you, either the clerk's office or directly to the judge. There are NO court costs or service fees for filing a family violence petition. If you go first to the Superior Court clerk's office to file your petition, ask about a hearing with the judge. The clerk will tell you where you need to go to see the judge. If you are directed to go first to the judge you will then go to the clerk's office and the clerk will give you the number for your case which is the Civil Action Case Number. Put this same number on the top right of each part where it says "Civil Action Case No."

Judges cannot issue orders unless they hear evidence. At the ex parte hearing it is your job to show that violent acts happened, that they are likely to happen again, and that you need legal protection. Some judges only look at what you have written in your petition. Some judges will talk with you about what happened. You may want to write

notes about what happened so that you can tell the judge your story clearly. The story does not need to be long, but must include the important facts about what happened and how this made you feel, if you were afraid or frightened, and how you were hurt. If other evidence is available (see examples below), take it with you and present it to the judge.

If possible get certified copies of papers, but take copies if that is all you can get.

1. Medical Evidence and Bills - If you had to have medical treatment because of the abuse, get the doctor's report or the hospital report and give it to the judge, along with any bills you have.
2. Police Reports - If you called the police and a report was prepared, get a copy of the report from the police station. Give this to the judge.
3. Warrants - If you took out a warrant against the abuser, get a copy of the warrant and give it to the judge.
4. Photographs - Take photographs of your injuries as soon as possible. If you don't have a camera, the local domestic violence shelter will have one. Take pictures of any damage the abuser did to property or pets.
5. Witnesses - At the ex-parte hearing the court will allow you to have one witness. The witness must be a person who actually saw the violent act or who saw you shortly after the violence happened. The witness should describe the violent act and any injuries the witness saw. CAUTION: Generally, a witness cannot tell the court what you told the witness or what another person told the witness.

If you cannot get any of these documents in time for the ex parte hearing, keep working on it because you will need them for the next hearing when the Respondent will also be present to give testimony.

I. AT THE FIRST (EX-PARTE) HEARING

Each court operates a little differently. Tell the clerk or the baliff that you have a Family Violence Petition and want to have an ex parte hearing. In some courts the judge may meet with you in his/her chambers. Some judges will only look at what is written in your petition and not talk with you. Give the judge your petition. You will be sworn in and tell the judge about your case. You should say something like this:

1. My name is _____.
2. I live in _____ county.

3. The Respondent lives in _____ county.
4. The Respondent is my _____ (husband, former husband, boyfriend, etc.)
5. We have _____ children, their names and ages are _____.
6. Then present your evidence about the violent acts. First, describe in detail the violent acts. Tell your story in a short, organized, clear, not overly emotional way.
7. Then if you have any other evidence like medical records or police reports give that to the judge and explain it. Give the judge your completed, notarized domestic relations financial affidavit or child support worksheets if you are asking for support before the next hearing.
8. Tell the judge what you want. If you want custody, it is particularly important that you tell the judge how the children have been harmed by the abuse, either by being abused themselves, or by seeing you being abused.
If the abuser is still in the home and you want him to leave, tell the judge.
If you want use of a car or particular things, tell the judge.
If you are dependent on the Respondent for support, tell the judge and you can ask that s/he order support.
Ask the judge to order that the Respondent not cut off the utilities or make any changes in medical, life, or car insurance.
Ask the judge to order that Respondent not destroy, encumber, or damage any property in your name or in both your names.
9. If you have a witness, you should tell the judge that you have a witness and tell the judge the witness' name. If the judge decides to allow the witness, s/he will be sworn in. You or the judge should ask the witness to describe what the witness saw.
10. Once the witness has talked to the judge, tell the judge that you have no further questions and that you have an Ex Parte Protective Order prepared for review.
11. Give the Ex Parte Protective Order to the judge. Answer any questions the judge asks truthfully.
12. If the judge signs the order, s/he will set a hearing date- usually within 10 days but no later than 30 days from the date you are in court.
13. Whether or not the judge signs the order you should say "thank you, your Honor."
If the judge does not sign the order, consult an attorney.
14. After the judge signs the Ex Parte Protective Order, take it to the clerk's office to have it filed.
15. Take a copy of the filed Ex Parte Protective Order to the sheriff's department for service.
16. Keep a copy of the signed Ex Parte Protective Order with you at all times.

At the sheriff's department you will need to fill out a form so that the sheriff's office can serve the papers on your abuser. (Sometimes this is done at the clerk's office and the clerk will send this form and the Respondent's copy of the Petition Ex Parte

Protective Order to the sheriff's office for service on the Respondent. You must ask the clerk which way this will be done in your county.) This information includes: address where the abuser lives, address where he works, hours worked, social security number, physical description of your abuser (scars, tattoos, height/weight, etc.). **If your abuser owns any guns, write that information down where the form asks for additional information.** **2018 UPDATE -- If the court finds that the abuser is avoiding service the court can extend the ex parte order for 30 days. A new form Ordering a 30 day extension is attached to this Manual as 2018 - 30 Day Extension Order.**

REMEMBER - ALWAYS BE CAREFUL.

Neither the police nor the courts can guarantee that you will be safe.

Contact your local family violence agency for help with safety planning at

1-800-33-HAVEN / 1-800-334-2836

J. CHILD SUPPORT & PETITIONER SUPPORT

Any time you ask for child support you must file child support worksheets and schedules. These forms help the judge calculate the child support obligations. If the child or children are living with you, your portion of any child support will come through the things you pay for on their behalf, such as food, shelter, clothes, and school expenses.

The parent who does not have custody of the child will be ordered to make child support payments. The judge must always order an amount of child support that is in the "best interests of the child. The child support forms are at:

<https://csconlinecalc.georgiacourts.gov/frontend/web/index.php>.

If you want help completing the child support worksheets and you are not represented by counsel, you can contact the Family Law Section of the State Bar (404) 526-8609 for more information.

You must tell the court about your income and expenses in the financial affidavit if you are asking for support for yourself. In part five, estimate how much money it would cost to run your

household. If you are in a shelter or living with a family member or friend and you intend to go into your own home, estimate the expenses of living in your own home. Note on the form you are estimating expenses for your own household. http://www.georgiacourts.org/sites/default/files/Court%20Rules/UNIFORM%20SUPERIOR%20COURT%20RULES_Updated_09_18_14_.pdf.
form in front of a notary.

K. THE SECOND HEARING (30-DAY HEARING) FOR THE 12 MONTH ORDER

You will need the Family Violence Twelve Month Temporary Protective Order for the second hearing. [Form C]. It is prepared the same way you prepared the Ex Parte Protective Order. Fill in the county, the names and case number, and circle the paragraphs which you have requested a decision by the judge, you should allow the judge to complete the Order and initial which paragraphs he decides to fill in after the hearing. One exception to this would be paragraph 27. If you asked for something specific in the last paragraph of the petition, you should add this to paragraph 27. If, for instance, if you asked that the Respondent turn in his gun to the sheriff's office, you could write, "It is further ordered that Respondent shall turn in any firearm he owns or which is in his possession to the ___ County Sheriff's Department within 24 hours of the entry of this order. Respondent shall not be in possession of a firearm during the term of this order." Make sure you circle paragraph 26 if you have a relationship with the Respondent that is listed. This advises the court that you are entitled to the protection of federal law restricting the Respondent's gun possession. You should also fill out the Respondent Identifying Fact Sheet.

When the judge signed the Ex Parte Protective Order s/he set a hearing date for both you and the abuser to come to court. **You must go to the court on this date (even if the abuser does not attend) if you want the Order to continue for 12 months.** At

this hearing, both you and your abuser may be in front of the judge. Both parties can have an attorney represent them (though neither party will be appointed a free attorney if they cannot afford one. Victims of family violence can contact Georgia Legal Services Program or the Atlanta Legal Aid Society to see if you are eligible for free legal representation. www.glsp.org or www.atlantalegalaid.org. You have the same responsibility as you did at the first hearing. You must show the court that the violence happened by your testimony, witnesses, or other evidence. You can use the evidence you presented to the court at the first hearing and any additional evidence you have gathered.

When your case is called you will be sworn in. Tell the judge what happened using similar evidence you presented at the ex parte hearing. (See page 10). Also, if you are asking for child support, you must submit the Child Support Worksheets. These documents should be presented to the judge. You say to the judge, “Your Honor, I would like to place into evidence the Domestic Relations Financial Affidavit and the Child Support Worksheets and Schedules.”

After you present your information to the judge and your witnesses have testified, you should say to the judge, “I have no further questions or information, your Honor.” The judge may ask you questions. Answer all questions truthfully, if you do not know the answer or do not understand the question, tell the judge you do not understand or do not know the answer. Your abuser or his attorney has the right to ask you questions.

Remain calm and answer only the question asked. Listen carefully to the question.

After this, your abuser will have a chance to tell his side of the story. You do not need to do anything during this time except listen carefully. Keep calm and cool. If the abuser lies, do not blow up or call him a liar. After your abuser tells his side, the judge may ask him some questions. The judge will then allow you to ask your abuser questions.

You do not have to ask questions. Unless you are certain that your question will help the judge better understand the case, you should not ask questions. **DO NOT ARGUE WITH the ABUSER or The Judge.**

After your abuser gives his side and you have asked him questions, the judge may ask you if you have anything further to say. You should say something else only if you need to clarify or want to make it known to the judge that your abuser did not state what really happened. Tell the judge what you want and ask for the Protective Order to be continued for 12 months.

The judge will then decide the case. If the judge decides to grant your Protective Order give him your Family Violence 12-month Protective Order to sign. Always be respectful in court. If the judge refuses to grant your order, see a lawyer. Take your signed 12-month Protective Order to the clerk's office to file. Get a certified copy of the Protective Order. **Keep a copy of the Protective Order with you at all times. Give a copy to the sheriff's office, police department or school, or day care.**

L. WHAT TO DO IF THE ABUSER/RESPONDENT VIOLATES THE ORDER

Now that you have an order, you have legal protection. We hope that the abuser will follow the order and not break any of the orders of the judge. However, sometimes the abuser will not follow the order. If this happens, you may try to enforce the order.

First call the Sheriff's Office or Police and report that you have a Protective Order, and that the abuser is still bothering you. Tell the police what happened. If the police refuse to arrest him, take the officer's name and ask to speak to his superior. Violation of a Family Violence Protective Order can be a felony offense under the stalking law.

Protective Orders can also be made permanent if abuse or the threat of abuse continues and you request an extension of the order **before** it expires. You should see your family violence agency or a lawyer if you need further help.

If the Respondent violates the order by not paying support for you or your minor children, do not call the police. An action for contempt or a garnishment can be filed. An action for contempt is a legal procedure to get the court to make him obey the order. A garnishment action requires the employer to withhold wages. The Office of Child Support Services can help to enforce child support orders.

Every situation can be different so always have a lawyer if you can. These forms and instructions are general models and cannot fit every situation. If you can't get a lawyer, you have the right to go to court yourself or with the help of a designated family violence agency worker or on your own. A court order will protect some people. It may protect you, but **ALWAYS BE CAREFUL**. Some abusers will still be dangerous. We hope this information is helpful. Your domestic violence agency should help you with safety planning. **1-800-33HAVEN / 1-800-334-2836**