

ALABAMA CIVIL PROTECTION ORDERS

Survivors across the country seek safety through civil protection orders. Courts use these vital orders to issue stay away orders, or order an abuser pay medical bills, and even make temporary custody decisions. The remedies are important, but jurisdictions often have several types of orders and the distinctions are not always clear. This resource provides a brief overview of the different types of civil protection orders in each jurisdiction, answering vital questions such as: who can apply; and who can be restrained? The orders included in this resource are limited to those where a survivor can apply themselves, other protective measures may exist in your jurisdiction—reach out to VRLC’s TA team if you have questions!

In Alabama, there are 2 types of civil protection orders:

- Protection from Abuse** is available for individuals seeking protection from a partner, family member, or person with whom they have a specific relationship (Ala. §§ 30-5-1 to 30-5-11).
- Elder Abuse Protection Order** is available for individuals 60 or older seeking protection from elder abuse (Ala. §§ 38-9F-1 to 38-9F-12).

PROTECTION FROM ABUSE ACT

Who can apply?

Any person who is at least 18 years or older or is emancipated, and who is the **victim** of **abuse**, or who has reasonable cause to believe there is imminent danger of becoming the victim of any act of abuse, may petition for a protective order.

A parent, legal guardian, next friend, court-appointed guardian ad litem, or the State Department of Human Resources may petition for relief on behalf of a minor child or any person prevented by physical or mental incapacity from seeking a protection order.

Ala. § 30-5-5(a).

Abuse is defined as any of the following committed or attempted against a victim:

- Arson;
- Assault;
- Child abuse;
- Criminal coercion;
- Criminal trespass;
- Harassment or menacing;
- Reckless endangerment;
- Sexual abuse;
- Stalking;
- Theft;
- Kidnapping or unlawful imprisonment;
- Any other conduct directed toward a victim that would be a criminal act under state law.

Ala. § 30-5-2(1).

Victim is defined as a person with a specific relationship to the perpetrator. See “Who Can be Restrained?” for more information.

PROTECTION FROM ABUSE ACT

<p>Can minors apply?</p>	<p>No. To file a petition for a protection order on one's own, the petitioner must be 18 or older or an emancipated minor. <i>Ala. § 30-5-5(a)(1).</i></p> <p>However, a parent, legal guardian, next friend, or court-appointed guardian, or the State Department of Human Resources may petition on behalf of a minor. <i>Ala. § 30-5-5(a)(2).</i></p>
<p>Who can be restrained?</p>	<p>Individuals who have the following relationships with the victim may be restrained:</p> <ul style="list-style-type: none"> • Has a current or former marriage, including common law marriage, with the defendant; • Has a child in common regardless of relationship; • Has or had a dating relationship with the defendant within 12 months of the filing of the petition; • Is a current or former household member. For purposes of this chapter, a "household member" excludes non-romantic or non-intimate co-residents. • A relative of a current or former household member who also lived with the defendant; • An individual who is a parent, stepparent, child, or stepchild; • An individual who is a grandparent, step-grandparent, grandchild, or step-grandchild. <p><i>Ala. § 30-5-2(3), (7); 30-5-5(a)(1).</i></p>
<p>What types of relief may a court order?</p>	<p>In an emergency (ex parte) protection from abuse order, which can be granted if the judge believes it is necessary to protect petitioner or their children from abuse, or from immediate and present danger of abuse, a judge can order the respondent:</p> <ul style="list-style-type: none"> • Stop committing or threatening to commit acts of abuse; <p style="text-align: right;"><i>continued on next page</i></p>

PROTECTION FROM ABUSE ACT

What types of relief may a court order?

- Stop harassing, stalking, annoying, threatening, or engaging in conduct that petitioner in reasonable fear of physical injury;
- Stop calling or contacting petitioner directly or indirectly;
- Prohibited from physical contact with petitioner;
- Stay at least 300 feet away from petitioner's home, work, school, or any other specific place that respondent has no legitimate reason to frequent;
- Be removed from a shared home, regardless of ownership;
- Not to interfere with custody of shared children, or remove said children from the state; and
- Not transfer, conceal, encumber, destroy, or sell joint property.

The judge can also include rulings on:

- Temporary custody of the children;
- Possession of a car and other personal items, regardless of ownership; and
- Any other relief necessary to ensure petitioner's safety, or that of other family or household members.

Ala. § 30-5-6(b), § 30-5-7(b).

In a permanent protection from abuse order, a judge can grant all of the protections of the emergency (ex parte) order listed above and make the following additional orders:

- Provide for visitation schedules with minor children;
- Require respondent pay reasonable attorney's fees and court costs;
- Provide petitioner with sole possession of the family home or have respondent provide for "suitable alternate housing";
- Award temporary child support and spousal support;
- Provide petitioner with temporary possession of a shared car.

Ala. § 30-5-7(c).

PROTECTION FROM ABUSE ACT

<p>How long does the order last?</p>	<p>A temporary ex parte protection remains in effect until final hearing date, usually within 10 days. By law, the judge can take three business days to decide whether or not to grant you an ex parte temporary order. <i>Ala. § 30-5-6(a), (b).</i></p> <p>If final hearing is continued, court may make or extend temporary protection order as it deems reasonably necessary. <i>Ala. § 30-5-6(c).</i></p> <p>Final protection order is permanent unless otherwise specified or modified by a subsequent court order. <i>Ala. § 30-5-7(d)(2).</i></p>
<p>Can the order be renewed?</p>	<p>Final protection order is permanent unless otherwise specified or modified by a subsequent court order. <i>Ala. § 30-5-7(d)(2).</i></p> <p>While final order is in place, court may amend final order at any time upon subsequent request filed by either party and a hearing. <i>Ala. § 30-5-7(d)(1).</i></p>
<p>Is a hearing with the respondent required?</p>	<p>A temporary ex parte protection order can be issued without notice or hearing if it appears from petition that an abuse has occurred. <i>Ala. § 30-5-7(a).</i></p> <p>A final protection order requires a hearing with the defendant. <i>Ala. § 30-5-6(a)</i></p>

ELDER ABUSE PROTECTION ORDER

Who can apply?

Anyone who is 60 or older and has been subjected to **elder abuse** can seek a protection order.

Ala. § 38-9F-6(a)(2).

If a plaintiff lacks the physical or mental capacity to petition on their own, a court appointed guardian, a court appointed conservator, a temporary guardian, agent appointed under a power of attorney, health care proxy appointed under advance directive for health care, or an interested person who has authority may file a petition on behalf of the plaintiff.

Ala. § 38-9F-6(a)(1).

Elder abuse is defined as any of the following acts committed against an elderly person:

- Arson;
- Assault;
- Child abuse;
- Criminal coercion;
- Criminal trespass;
- Emotional abuse;
- Financial exploitation;
- Harassment or menacing;
- Reckless endangerment;
- Sexual abuse;
- Stalking;
- Theft;
- Kidnapping or unlawful imprisonment.

Ala. § 38-9F-3(2).

ELDER ABUSE PROTECTION ORDER

Who can apply?	<p>Elderly person is defined as: Anyone 60 years of age or older. <i>Ala. § 38-9F-3(4).</i></p> <p>Abuse is defined as:</p> <ul style="list-style-type: none"> • The infliction of physical pain, injury; or • The willful deprivation of services necessary to maintain physical and mental health. <p><i>Ala. § 38-9-2.</i></p>
Can minors apply?	<p>Not applicable.</p>
Who can be restrained?	<p>Anyone who has committed or has intent to commit elder abuse as defined in the statute. <i>Ala. § 38-9F-3(2).; § 38-9F-8.</i></p>
What types of relief may a court order?	<p>In an ex parte protection from elder abuse order, which can be granted if the judge believes there is a risk of imminent potential harm to the plaintiff, a judge can order the respondent to:</p> <ul style="list-style-type: none"> • Stop committing or threatening to commit acts of elder abuse; • Stop harassing, contacting, or communicating with petitioner or engaging in conduct that would place them in reasonable fear of bodily injury; • Stay away from petitioner’s home, workplace, and any other specific place the respondent has no legitimate reason to frequent; • Be removed from petitioner’s residence, or shared residence; • Not interfere with joint property or in which petitioner had ownership interest within the last 12 months; <p style="text-align: right;"><i>continued on next page</i></p>

ELDER ABUSE PROTECTION ORDER

What types of relief may a court order?

- Not transfer petitioner's funds, benefits, property, resources, belongings or others assets to any person;
- Stop exercising control over petitioner's funds, benefits, property, resources, belongings, or assets; and
- Stop exercising any power of attorney.

The judge can also include rulings on:

- Possession of a car and other personal items, regardless of ownership;
- An accounting from the defendant of the disposition of petitioner's income, resources, debts, and expenses;
- Require the defendant to comply with the instructions of a guardian, conservator, or agent under power of attorney; and
- Any other relief necessary to provide for the safety and protection of petitioner and other family or household members.

Ala. § 38-9F-8(b).

In a final order, a judge can grant all of the protections of the ex parte order listed above and make the following additional orders:

- Require the defendant to return custody or control of petitioner's funds, benefits, property, resources, belongings, or assets;
- Order restitution;
- Prohibit the defendant from possessing a firearm or other weapon, except when the weapon is necessary for employment as a law enforcement officer or military personnel; and
- Require respondent pay reasonable attorney's fees and court costs.

Ala. § 38-9F-8(c).

ELDER ABUSE PROTECTION ORDER

<p>How long does the order last?</p>	<p>A temporary ex parte protection order remains in effect until the final hearing date, usually within 10 days. By law, the judge can take three business days to decide whether or not to grant you an ex parte temporary order. <i>Ala. § 38-9F-(7)(a), (b).</i></p> <p>If the final hearing is continued, court may make or extend temporary protection order as it deems reasonably necessary. <i>Ala. § 38-9F-7(c).</i></p> <p>Final protection order is permanent unless otherwise specified by the court. <i>Ala. § 38-9F-8(e).</i></p>
<p>Can the order be renewed?</p>	<p>Final protection order is permanent unless otherwise specified by the court. <i>Ala. § 38-9F-8(e).</i></p> <p>Petition to modify a protection order is also authorized. <i>Ala. § 38-9F-8(a).</i></p>
<p>Is a hearing with the respondent required?</p>	<p>A temporary ex parte protection order can be issued without notice or hearing if it appears from petition that abuse has occurred. <i>Ala. § 38-9F-8(a).</i></p> <p>A final protection order requires a hearing with the defendant. <i>Ala. § 38-9F-7(a).</i></p>

HOW TO APPLY

Standardized petition forms are available at the circuit court offices throughout the state. Forms are also available at online at: <https://eforms.alacourt.gov/civil-forms/protection-from-abuse/>

Sworn petition must allege specific facts of abuse and that plaintiff genuinely fears subsequent acts of abuse.

If plaintiff does not wish to disclose address or telephone number, they shall provide alternate address or address of attorney of record (if applicable).

Petitioner files petition in circuit court where petitioner or defendant resides; where petitioner is temporarily located (if left residence to avoid abuse); where abuse occurred; or where civil matter is pending in which plaintiff and defendant are opposing parties.

Ala. § 30-5-5

SCAN ME!



For specific questions about how to use this guide, or if you have any other questions, VRLC is here to help!

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