

IDAHO 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 Idaho, there are 2 types of civil protection orders:

- Domestic Violence Protection Order** is available for individuals seeking protection from a domestic partner including, but not limited to a spouse, dating relationship, or household member (Idaho Code § 39-6301 to 6317).

- Protection Order Against Malicious Harassment, Stalking, and Telephone Harassment** is available for individuals seeking protection from any individual who has harassed them or for individuals experiencing stalking (Idaho Code § 18-7907 to 7909).

DOMESTIC VIOLENCE PROTECTION ORDER

<p>Who can apply?</p>	<p>A person may apply for a protection order for relief from domestic violence against a respondent who is a family member, a household member, or with whom the person has or had a dating relationship.</p> <p><i>IC § 39-6304, 6308</i></p> <p>Domestic violence is defined as any of the following or threat thereof:</p> <ul style="list-style-type: none"> • Physical injury; • Sexual abuse; or • Forced imprisonment; <p><i>IC § 39-6303(1)</i></p> <p>See “Who can be restrained?” for definitions of family member, household member, and dating relationship.</p>
<p>Can minors apply?</p>	<p>No, but a custodial parent, noncustodial parent, or guardian may seek protection on behalf of a minor child who is the victim of domestic violence.</p> <p><i>IC § 39-6304(2)</i></p>
<p>Who can be restrained?</p>	<p>A family member, a household member, or other person with whom the petitioner has or had a dating relationship.</p> <p><i>IC § 39-6303(9), 6304</i></p> <p>Family member includes:</p> <ul style="list-style-type: none"> • Current and former spouses; • Blood relations; and • Relations by adoption or marriage. <p><i>IC § 39-6303(3)</i></p> <p style="text-align: right;"><i>continued on next page</i></p>



DOMESTIC VIOLENCE PROTECTION ORDER

<p>Who can be restrained?</p>	<p>Household member includes:</p> <ul style="list-style-type: none"> • Persons who live together or lived together; or • Have a child in common regardless of marital status or co-habitation. <p><i>IC §39-6303(6)</i></p> <p>Dating relationship refers to a romantic relationship, determined by:</p> <ul style="list-style-type: none"> • Nature of the relationship; • Length of time of the relationship; • Frequency of interaction; and • Time since termination of the relationship if relevant. <p><i>IC § 39-6303(2)(a)-(d)</i></p>
<p>What types of relief may a court order?</p>	<p>Ex parte temporary protection order (effective immediately - granted when irreparable injury could result from domestic violence in the absence of such an order):</p> <ul style="list-style-type: none"> • Restraint from acts of domestic violence; • Exclusion from a shared dwelling or the petitioner’s residence; • Restraint from interference with custody of minor children and from removing the children from the jurisdiction; • Restraint from contacting, molesting, interfering, or menacing minor children in the custody of the petitioner; • Restraint from any premises when necessary to prevent contacting, molesting, interfering with or menacing the petitioner or the minor children; • Restraint from taking more than personal clothing or toiletries; • Any other relief deemed necessary for the protection of a family or household member. <p><i>IC § 39-6308.</i></p> <p style="text-align: right;"><i>continued on next page</i></p>



DOMESTIC VIOLENCE PROTECTION ORDER

<p>What types of relief may a court order?</p>	<p>Final protection order (granted at 14-day hearing upon a showing of immediate and present danger of domestic violence), in addition to the list above:</p> <ul style="list-style-type: none"> • Temporary custody of minor children, subject to existing law and prior custody orders; • Prohibit respondent from harassing, contacting or communicating with petitioner or family members; • Prohibit respondent from entering any relevant place; • Any other relief deemed necessary for the protection of a family or household member; • Respondent ordered to participate in treatment or counseling services; • Respondent to pay fees and costs incurred in bringing the action; • Restraint from coming within one thousand five hundred (1,500) feet of petitioner's residence, school or place of employment, or any place frequented by petitioner or other designated persons such as minor children in the custody of the petitioner; • Transfer of rights and billing for a telephone number. <p><i>IC § 39-6318; IC § 39-6306(1)</i></p> <p>Immediate and present danger includes, but is not limited to, threats of bodily harm or acts of domestic violence, or where there is reasonable cause to believe bodily harm may result.</p> <p><i>IC § 39-6306(2)</i></p>
<p>How long does the order last?</p>	<p>Ex parte temporary protection order: up to 14 days (time of hearing). <i>IC § 39-6308(5)</i></p> <p>Final protection order: up to one year. <i>IC § 39-6306(5)</i></p>



DOMESTIC VIOLENCE PROTECTION ORDER

<p>Can the order be renewed?</p>	<p>Ex parte temporary protection order: May be reissued for good cause. <i>IC § 39-6308(5)</i></p> <p>Final protection order: up to one year. May be reissued for good cause. <i>IC § 39-6306 (1)</i></p>
<p>Is a hearing with the respondent required?</p>	<p>Ex parte temporary protection order may be issued on the day of filing without a hearing and by telephone, but a hearing is required within 14 days of that filing. <i>IC § 39-6308(1)-(2)</i></p> <p>Final protection order may be issued at the hearing, which is required within 14 days of filing. <i>IC § 39-6304</i></p>

PROTECTION ORDER AGAINST MALICIOUS HARASSMENT, STALKING, AND TELEPHONE HARASSMENT

<p>Who can apply?</p>	<p>A person may seek a protection order for relief from malicious harassment, stalking, and/or telephone harassment that has occurred within ninety (90) days preceding the filing for protection, and which is likely to reoccur. <i>IC § 18-7907, 7908.</i></p> <p>Malicious Harassment refers to:</p> <ul style="list-style-type: none"> • Malicious and specific intent to intimidate or harass a person based on their: <ul style="list-style-type: none"> ◦ Race, color, religion, ancestry, or national origin; ◦ Threatening or causing physical injury; ◦ Threatening, damaging, destroying, or defacing real or personal property. <p><i>IC § 18-7902.</i></p> <p>Stalking is defined as: It may include violations of protective orders, nonconsensual contact, conduct that seriously alarms, annoys, or harasses to cause substantial emotional distress, conduct causing a reasonable fear of death or physical injury, and more. <i>IC § 18-7905 (1st degree) and 7906 (2nd degree)</i></p> <p>Telephone harassment captures: Communicating with the intent to terrify, threaten, or intimidate, threat to inflict injury or physical harm to the person or any family member, using a telephone or other electronic methods (e.g., messages, video, images, etc.). <i>IC § 18-6710(1)-(3).</i></p>
<p>Can minors apply?</p>	<p>No, but a person may seek protection for their children or ward that is a minor. <i>IC § 18-7907 (2).</i></p>



PROTECTION ORDER AGAINST MALICIOUS HARASSMENT, STALKING, AND TELEPHONE HARASSMENT

<p>Who can be restrained?</p>	<p>Any person whom has committed malicious harassment, stalking, and/or telephone harassment within the 90 days prior to the filing. No specific relationship is needed. <i>IC § 18-7907(2).</i></p>
<p>What types of relief may a court order?</p>	<p>Protection order is granted when a preponderance of evidence at the hearing shows the respondent committed the conduct. Relief includes:</p> <ul style="list-style-type: none"> • Restraint from conduct at issue; • Restraint from contacting the petitioner; and • Other necessary relief (e.g., a requirement that respondent may not knowingly remain within up to one thousand five hundred feet of the petitioner). <p><i>IC § 18-7907(4).</i></p> <p>Ex parte temporary protection order (effective immediately) may be granted where court finds that (1) present harm could result if such an order is not immediately issued without notice to the respondent and (2) the respondent acted intentionally. Grants the same relief as a protection order. <i>IC § 18- 7908.</i></p> <p>Contact is defined as:</p> <ul style="list-style-type: none"> • Any actual physical contact; • Contact or attempted contact; • Directly or indirectly; • By telephone, pager, e-mail facsimile; or • Other oral, written, or electronic means of communication. <p><i>IC § 18-7907(11).</i></p>



PROTECTION ORDER AGAINST MALICIOUS HARASSMENT, STALKING, AND TELEPHONE HARASSMENT

<p>How long does the order last?</p>	<p>Protection order: up to one year, effective from the hearing. <i>IC § 18-7907(7).</i></p> <p>Ex parte temporary protection order: up to 14 days (time of the hearing). <i>IC § 18-7908(4).</i></p>
<p>Can the order be renewed?</p>	<p>Protection order: May be reissued for good cause. <i>IC § 18-7907(7).</i></p> <p>Ex parte temporary protection order: May be reissued for good cause. <i>IC § 18-7908(4).</i></p>
<p>Is a hearing with the respondent required?</p>	<p>Protection order: Yes, within 14 days of the filing. <i>IC § 18-7907(3).</i></p> <p>Ex parte temporary protection order: Yes, within 14 days of the filing. <i>IC § 18-7908(2)-(4).</i></p>

HOW TO APPLY

Submit three completed forms at the courthouse in the county where they presently live, where the respondent lives, or where they are presently staying:

- Sworn petition for a protection order
- Law enforcement service information sheet
- Family law case information sheet

Forms are available at courthouse and online at <https://courtsselfhelp.idaho.gov/Forms/protection>

There are no fees for filing, serving the respondent, or for the hearing for the ex parte temporary protection order or the final protection order.

IC § 39-6305.

SCAN ME!



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

This project was supported by Grant No. 15JOVW-23-GK-05124-MUMU awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Justice.