

MISSISSIPPI 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 Mississippi, there is 1 type of civil protection order:

- **Domestic Abuse Protection Orders** are available for individuals seeking protection from domestic violence committed by someone with whom they share a specific relationship, such as a spouse or a dating partner (MS Code § 93-21-7 (2020)).



DOMESTIC ABUSE PROTECTION ORDER

<p>Who can apply?</p>	<p>Any adult person may seek a domestic abuse protection order for themselves by filing a petition alleging abuse by the respondent.</p> <p>Any parent, adult household member, or next friend of the abused person may seek a domestic abuse protection order on behalf of any minor child or any person alleged to be incompetent by filing a petition with the court alleging abuse by the respondent.</p> <p><i>MS Code § 93-21-7.</i></p> <p>Domestic abuse means any of the following occurring between those in a specific relationship:</p> <ul style="list-style-type: none"> • Attempting to or causing bodily injury; • Placing another in fear of imminent bodily injury by menace or threat; • Criminal sexual conduct; • Stalking; • Cyberstalking; and • Sexual offenses. <p><i>MS Code § 93-21-3(a).</i></p>
<p>Can minors apply?</p>	<p>No, but any parent, adult household member, or next friend of the abused person may seek a domestic abuse protection order on behalf of any minor child or any person alleged to be incompetent by filing a petition with the court alleging abuse by the respondent.</p> <p><i>MS Code § 93-21-7.</i></p> <p>Next friend is defined as: A person appearing in or appointed by a court to act on behalf of a person (such as a child) lacking legal capacity.</p> <p><i>MS Code § 93-21-3(a).</i></p>



DOMESTIC ABUSE PROTECTION ORDER

<p>Who can be restrained?</p>	<p>A person in a specific relationship with petitioner who commits domestic abuse.</p> <p>The eligible relationships are:</p> <ul style="list-style-type: none"> • Spouses, former spouses, persons currently or previously living as spouses; • Persons related by blood or marriage and currently or formerly residing together; • Persons with a child or children in common; • Persons involved in a current or former dating relationship. <p><i>MS Code § 93-21-3(a).</i></p> <p>To determine whether a relationship is a dating relationship, the court should consider:</p> <ul style="list-style-type: none"> • Length of relationship; • Type of relationship; and • Frequency of interactions. <p><i>MS Code § 93-21-3(d).</i></p>
<p>What types of relief may a court order?</p>	<p>A temporary or emergency protective order granted by the court may include, but is not limited to:</p> <ul style="list-style-type: none"> • Directing the respondent to refrain from abusing the petitioner, any minor children, or any person alleged to be incompetent; • Prohibiting or limiting respondent's physical proximity to the abused or other household members, including residence and place of work; • Prohibiting or limiting contact by the respondent with the abused or other household members, whether in person, by telephone or by other electronic communication; • Granting possession to the petitioner of the residence/household by evicting the respondent or restoring possession to the petitioner, or both; or <p style="text-align: right;"><i>continued on next page</i></p>



DOMESTIC ABUSE PROTECTION ORDER

<p>What types of relief may a court order?</p>	<ul style="list-style-type: none"> • Prohibiting the transferring, encumbering, or otherwise disposing of property mutually owned or leased by the parties, except in the ordinary course of business. <i>MS Code § 93-21-15(1)(a); MS Code § 93-21-13(1)(b).</i> <p>In a final order, the court may include any of the above provisions, as well as:</p> <ul style="list-style-type: none"> • Grant petitioner possession of a shared residence, or have respondent provide alternate housing; • Order of temporary support; • Award or establishment of temporary custody or visitation rights; • Order that respondent pay monetary compensation for direct losses from the abuse; and • Order of counseling or professional medical treatment for respondent. <i>MS Code § 93-21-15(2)(a).</i>
<p>How long does the order last?</p>	<p>An emergency order lasts up to 10 days or until a hearing may be held; if the hearing is delayed, the court may grant an extension for up to an additional 20 days. <i>MS Code § 93-21-13.</i></p> <p>A temporary order lasts up to 30 days if the party to be protected and the respondent have children in common.</p> <p>Up to one 1 year if the party to be protected and the respondent do not have minor children in common. <i>MS Code § 93-21-15.</i></p> <p>A final order lasts for such time period as the court deems appropriate. Certain provisions, listed below, can only apply temporarily. The expiration date of the order shall be clearly stated in the order. <i>MS Code § 93-21-15(2)(b).</i></p>

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DOMESTIC ABUSE PROTECTION ORDER

<p>How long does the order last?</p>	<p>Temporary provisions addressing temporary custody, visitation, or support of minor children contained in a final DAPO shall be effective for 180 days. Relief beyond 180 days must be separately applied for in chancery court; otherwise, the situation will default to the conditions in place prior to the granting of the DAPO. <i>MS Code § 93-21-15(2)(c).</i></p>
<p>Can the order be renewed?</p>	<p>Yes, the expiration date of the final order may be modified by the court after a subsequent petition and hearing. <i>MS Code § 93-21-15.</i></p>
<p>Is a hearing with the respondent required?</p>	<p>An emergency order can be issued without notice to respondent or a hearing as long as good cause is shown through an immediate and present danger of abuse.</p> <p>The respondent shall be provided with notice of the entry of any issued emergency DAPO by personal service of process. <i>MS Code § 93-21-13(1)(a).</i></p> <p>For a final protection order, notice of the hearing must be given to the respondent. The hearing may be conducted without the respondent present if respondent was properly noticed. <i>MS Code § 93-21-11.</i></p>

HOW TO APPLY

A person seeking protection must apply in a court in the same county or municipality where the respondent resides or where the alleged abuse occurred.

Forms are available at courthouse and online at <https://attorneygenerallynnfitch.com/divisions/bureau-of-victim-assistance/> (under Court Clerk Forms menu)

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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