

SOUTH CAROLINA 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 South Carolina, there are 2 types of civil protection orders:

- ☐ **Protection from Domestic Abuse Act Orders** are available for individuals seeking protection from domestic violence committed by a family or household member (SC St §§ 20-4-10 to 20-4-160).
- ☐ **Restraining Orders Against Harassment or Stalking** are available for individuals who are seeking protection from any individual who has harassed or stalked them (SC St §§ 16-13-1700 to 16-3-1840).

ORDER OF PROTECTION

Who can apply?	An individual experiencing abuse by a household member can petition for an order of protection. <i>SC St § 20-4-20(d).</i> Abuse includes: • Physical harm or threat thereof; and/or • Criminal sexual offenses. <i>SC St § 20-4-20(a).</i> See “Who can be Restrained?” for the definition of a household member.
Can minors apply?	No. A family or household member can file on behalf of a minor. <i>SC St § 20-4-20; SC St § 63-1-40.</i>
Who can be restrained?	A family or household member. A household member is a: 1. Spouse or former spouse; 2. Person with a child in common; or 3. A couple currently or previously cohabitated.* <i>SC St § 20-4-20(b).</i> *Note: The statute reads “a male and female who are cohabitating...,” however case law has consistently held that the protection order is applicable to same-sex couples as well.
What types of relief may a court order?	A temporary protection order may include orders that: • Prohibit respondent from abusing the petitioner; and <i>continued on next page</i>

ORDER OF PROTECTION

What types of relief may a court order?	• Prohibit respondent from communicating with the petitioner. <i>SC St § 20-4-60(A).</i> A final order should take steps to protect the petitioner and can include any of the below as well as: • Award of temporary custody or visitation rights of minor children; • Award of temporary child or spousal support payments; • Award of temporary possession of a shared residence, or eviction of the respondent when appropriate; • Prevent respondent from destroying or transferring real property (i.e. real estate) or personal property, including animals; • Prohibit respondent from harming any pets; • Award of costs and attorney's fees. <i>SC St § 20-4-60(A-C).</i>
How long does the order last?	A final order will last for no shorter than 6 months and no longer than 1 year. <i>SC St § 20-4-70(A).</i>
Can the order be renewed?	Yes. Also, the respondent has the right to a hearing on a request to extend the order, within 30 days of the expiration date of the order. <i>SC St § 20-4-70.</i>
Is a hearing with the respondent required?	Yes. With good cause, a petitioner can request and the court may grant an emergency hearing be held within 24 hours of service of the petition on the respondent. If no emergency hearing is held, a full hearing will be scheduled within 15 days of filing, with the respondent given at least 5 days notice to appear. <i>SC St § 20-4-50.</i>

HARASSMENT OR STALKING RESTRAINING ORDER

Who can apply?	Any person who is a victim of harassment in the first or second degree or stalking. <i>SC Code § 16-3-1750.</i> Harassment means a pattern of intentional, substantial, and unreasonable intrusion into the private life of a person that serves no legitimate purpose and would cause a reasonable person to experience mental or emotional distress. Harassment in the first degree includes but is not limited to: 1. Following that person; 2. Repeated visual or physical contact after being told it was unwanted; 3. Surveillance of a residence, place of work, school, or related place; or 4. Vandalism or property damage. Harassment in the second degree includes but is not limited to verbal, written, or electronic contact that is initiated, maintained, or repeated. <i>SC St § 16-3-1700(A-B).</i> Stalking is defined as: A pattern of words or conduct that causes, or is intended to cause, a targeted person to fear death, bodily injury, assault, sexual assault, kidnapping, or damage to property of themselves or a family member. <i>SC St § 16-3-1700(C).</i> A pattern means two or more acts occurring over any period of time and evidencing a continuity of purpose. <i>SC St § 16-3-1700(D).</i>
Can minors apply?	Yes. The statute specifies that a complaint and motion for the restraining order may be filed “by any person.” <i>SC St § 16-3-1750(C).</i>

HARASSMENT OR STALKING RESTRAINING ORDER

Who can be restrained?	Any person engaged in stalking or harassment. <i>SC Code § 16-3-1750.</i>
What types of relief may a court order?	A temporary or final restraining order may include prohibiting defendant from: 1. Abusing or threatening to abuse petitioner or their family members; 2. Entering or attempting to enter the petitioner's place of residence, employment, education, or other relevant place; or 3. Communicating or attempting to communicate with petitioner. <i>SC St § 16-3-1770 (B)(1-3).</i>
How long does the order last?	The order typically remains in effect for 1 year. <i>SC St §§ 16-3-1750(E), 16-3-1780(A), (B).</i>
Can the order be renewed?	If the plaintiff shows good cause, the restraining order may be extended. In such cases, the defendant must receive notice and is entitled to a hearing within 30 days of the order's original expiration date. <i>SC St § 16-3-1780(B).</i>
Is a hearing with the respondent required?	With good cause, a petitioner can request an emergency hearing to occur within 24 hours of the filing of a petition. The court may grant a temporary order at the emergency hearing without providing notice to the defendant if the petitioner proves the abuse more likely than not occurred or will occur. <i>SC St § 16-3-1760(A).</i> A full hearing, generally within 15 days of filing and with at least 5 days notice given to the defendant, will be held before a full order is granted or a temporary order extended. <i>SC St § 16-3-1760(B-D).</i>

HOW TO APPLY

Forms are available at courthouse and online, search “Protection” here to find the full list:

<https://www.sccourts.org/forms/#>.

Where petitioner should file depends on the type of order being sought, but generally petitioner should file in the county where respondent lives or the county where the conduct occurred.

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.