
A GUIDE TO PROTECTION ORDERS

East Fork Justice Court
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OVERVIEW

A “**protection order**” is an order issued by a court that protects a person by requiring another person to do, or not do, certain things. The order could be:

- A “**temporary protection order**,” which is an order issued by the justice court that is in effect for 45 days, 30 days, or less;
- An “**extended protection order**,” which is an order that extends the initial temporary protection order for up to two years depending on the type of order.

The “**applicant**” is the person who believes they need protection and who files the application for an order with the court. The applicant could be:

- A person who believes they need protection because they have been the victim of a crime involving stalking or harassment, domestic violence, or sexual assault.
- A parent or guardian of a child who has been the victim of a crime categorized as harmful to minors.
- An employer or business that believes the crime of harassment in the workplace has occurred.

The “**adverse party**” is the person the applicant believes they need protection from. It is the person who allegedly committed the crime against the applicant.

A protection order can do a number of things. It can:

- Order the adverse party to **stay away** from the applicant’s home, school, business, place of employment, and any other location specifically named by the court.
- Require the adverse party to **refrain from** contacting, intimidating, threatening, or otherwise interfering with the applicant or members of the applicant’s family, household,

DISCLAIMER: The information in this handbook is provided as a courtesy by the Court for general reference and is not a substitute for legal advice. The information contained herein is subject to statutory amendment or changes in Nevada law. If you need specific advice, you are strongly encouraged to consult an attorney.

or any other person named by the court.

- Order the adverse party to **comply with** any other restriction the court deems necessary to protect the victim or any other person named in the order.

HOW DO I FILE FOR PROTECTION?

STEP ONE: GET THE APPROPRIATE APPLICATION

Which application you should file depends on the facts of your particular situation and why you need the protection.

You will need to study the Nevada statutes to decide which statutes and application apply to your situation:

- Domestic Violence is defined in NRS 33.018
- Stalking and Harassment are defined in NRS 200.571, 200.575, and 200.592
- Sexual Assault is defined in NRS 200.366 and NRS 200.378
- Protection orders for harm to minors is controlled by NRS 33.400 – 33.440, 432B.100, 432B.110
- Workplace Harassment is defined in NRS 33.200 – 33.360
- Orders for Protection Against High-Risk Behavior is defined in NRS 33.500 – 33.670

A copy of a table comparing the types of protection orders is attached. You may access the NRS (Nevada Revised Statutes) for free through www.leg.state.nv.us/NRS. You may also access and print copies at the Douglas County Public Library.

The Court's applications are available for free at www.eastforkjusticecourt.com or at the Clerk's Counter.

STEP TWO: ENSURE THAT THE EAST FORK IS THE RIGHT PLACE TO FILE YOUR APPLICATION

For the East Fork Justice Court to issue an order for protection:

- The incident that gave rise to the order must have occurred in the area served by the justice court. An act of stalking or harassment or domestic violence occurs “where the conduct occurred” or “where the person who was affected by the conduct was located at the time that the conduct occurred.”
- The plaintiff must currently reside in the East Fork of Douglas County; or
- The defendant must currently reside in the East Fork of Douglas County.

PLEASE NOTE: If the Defendant lives outside of Douglas County it may be challenging to serve him or her the required paperwork. If not served, an extended order cannot be entered.

For expedited service of required court documents, it is recommended that you file in the county where the defendant resides.

The East Fork of Douglas County is generally the entire county, minus Kingsbury Grade and Lake Tahoe. The communities the East Fork Justice Court serves includes, but is not limited to: Indian Hills, Johnson Lane, Genoa, Minden, Gardnerville, East Valley, Rhuenstroth, Pine Nuts, and Topaz Lake/TRE.

STEP THREE: PREPARE YOUR APPLICATION

The Court's applications are available for free at www.eastforkjusticecourt.com or at the Clerk's Counter.

As you fill out your application, keep the following tips in mind:

- Your application should be neatly handwritten or typed.
- Do not write in the margins or on the back of the forms.
- Make sure every blank is filled, even if you write "None," "N/A," or "UNK" (for "unknown").
- Be as specific as possible and include all relevant dates, locations, and witnesses.** You may type your narrative and attach it to your application.
- List yourself as the "applicant." You may be able to request protection for other people in your household by listing them in the application.
- Whatever way you list your name and the name of the adverse party, list the names consistently throughout the application.
- If you are under eighteen years old, you must have a parent or guardian apply for the protection for you.
- The application and any supporting documentation you submit to the court becomes a public record that can be viewed by anyone.
- You are signing the application under penalty of perjury. If you make any intentionally false or misleading statements, you may be subject to criminal penalties.

STEP FOUR: PREPARE YOUR EXHIBITS (IF ANY)

You are not required to have any exhibits. If you do have documents to support your application, print out and copy such things as:

- Copies of text messages or direct messages
- Documentation or transcripts of phone calls by the adverse party
- Notes or written threats left by the adverse party
- Pictures of property damage caused by the adverse party
- Any other written documents that help to support your application

You are not required to file a written police report before applying for a protection order. If you have filed a police report, you can attach a copy to your application. If there are other protection orders that name the adverse party, attached copies of those as well if they are available.

CAUTION! Remember that any documents you file with the court become public records that anyone can view. So be sure to black out any confidential information (social security numbers, for example) before you file them with the court.

STEP FIVE: PREPARE YOUR CONFIDENTIAL INFORMATION SHEET & CIVIL COVER SHEET

The next document you must complete is a confidential information sheet. The information you provide in this document is not available to the general public. Provide as much information as possible. This information allows the court to contact you about upcoming hearings or activities in your case. It also allows law enforcement to serve documents on the adverse party.

You must also complete a Civil Court Cover Sheet.

STEP SIX: FILE YOUR DOCUMENTS WITH THE COURT

Take your completed documents to the East Fork Justice Court Clerk:

- Application
- Confidential Information Sheet
- Civil Cover Sheet

If your matter includes a request for child custody:

- UCCJEA declaration

If your matter includes a request for financial support, you may be required to file a financial declaration

STEP SEVEN: WAIT FOR THE COURT'S DECISION

After you have completed your application and other documents, your paperwork will be assigned a case number, and your case will be assigned to a justice of the peace. The justice of the peace will do one of three things:

PERSONAL SERVICE ON ADVERSE PARTY REQUIRED

We will provide the TPO and Notice of Hearing to law enforcement in the State of Nevada, including the Douglas County Sheriff's Office, for personal service.

However, if (1) you have provided insufficient information to locate the adverse party, or (2) the adverse party resides in another state, it will be **your responsibility** have the protection order and any notice of hearing personally served.

application; or,

1. **Grant your application and issue a "TPO"** (temporary protection order). If the court grants your application, a written protection order will be prepared and sent to Nevada law enforcement for service on the adverse party. This order must be personally served on the defendant before law enforcement can enforce it.
2. **Deny your application.** If your application is denied, the justice of the peace will issue an order explaining the reason for the denial.
3. **Schedule a hearing.** A hearing will be scheduled if:
 - a. The Justice of the Peace needs additional information before granting or denying the

- b. You have requested an extended order.

When you file your application, verify with the court clerk how you will be notified should the court schedule a hearing on your application. Typically you will receive a notice by mail or be asked to pick the notice up at the court.

STEP EIGHT: PREPARE FOR YOUR HEARING

Before the hearing, prepare a brief outline to refer to during the hearing. Your outline should include the necessary facts and details about your case. Do not include unnecessary details, history, or be repetitious. Explain why you believe you need the protection order.

Preparing your evidence for the hearing is just as important as preparing your thoughts. Bring the three copies of any document you wish to submit as evidence (any notes, photographs, police report, etc.). **If submitted as evidence, the Court will keep your original.**

It may be especially helpful if you practice presenting your case to someone who is not familiar with it. If something is confusing or does not make sense, you will know.

As your court date approaches, you should:

- Make three copies of all papers and exhibits you want to present to the Court.
- If your matter includes a request for financial support, complete the financial affidavit.
- Make sure your documents are organized neatly and logically.
- Notify your witnesses (if any) of the Court date, and subpoena anyone you wish to compel to appear.
- Outline what you want to say. You are permitted to read a prepared statement if you would like.
- Be clear on what you are asking for and outline exactly what you are asking for (such as: an extended protection order, parenting time with children, return of personal property, or financial matters).
- You will not be permitted to speak directly to the other side. Do not argue with them, or prepare remarks meant to be addressed to the other party.
- Outline the questions you have for witnesses.

STEP NINE: ATTEND ANY HEARING

If the judge schedules a hearing on your application, the court will mail you the order scheduling the hearing and the sheriff will serve the order on the adverse party.

Arrive early! The last thing you want to happen after all of the work you have done preparing for your day in court is to be late. Check in at the Court Clerk's window.

Dress conservatively. You are not required to wear a suit, but you should refrain from wearing shorts, flip-flops, tank tops, halter-tops, or shirts that show your midriff. You must remove hats and sunglasses before entering the courtroom.

Your hearing will take place in a courtroom with many other people who have an evidentiary

hearing at the same time. Be polite and pay attention while waiting for your case to be called. Refrain from talking, chewing gum, listening to music, and shuffling your papers. Be sure that your phone is turned off. If you must leave the courtroom, do so as quietly as possible. Respect the clerks, constables, and other litigants.

If the applicant is not present, the protection order will be dismissed. If the adverse party is not present, the Court must still hear evidence from the applicant and make a decision whether to extend the protection order or not.

Q&A-PROTECTION ORDERS

Who can apply for a protection order?

You can apply for a protection order if:

- You reasonably believe that you are the victim of a crime involving stalking or harassment,
- You reasonably believe that you are the victim of sexual assault,
- You reasonably believe that you are the victim of domestic violence,
- You are the agent of a business where the crime of harassment in the workplace has occurred, or
- You are the parent or guardian of a child and you reasonably believe the child has been the victim of a crime categorized as harmful to minors.

You must be at least eighteen years old to apply for a protection order. If you are a minor who needs protection, you must have an adult apply for the protection order on your behalf.

Do I need an attorney?

No.

You can apply for a protection order without an attorney. You can hire an attorney to assist you with the application and any hearing, if you choose to do so.

If you are the adverse party, you may proceed with or without an attorney.

How much does it cost to file for a protection order?

If you are seeking an order against workplace harassment, you will be required to post a bond of \$100 with the court. (The court can also award costs and reasonable attorney's fee to the prevailing party in this type of case.)

For all other types of protection orders, there is **no fee** to file an application. If the case goes to a hearing before a judge, the judge has the discretion to impose the full filing fee, a reduced fee, or no fee against the adverse party.

Can I file for a protection order but keep my name and address confidential?

You must include your name in the application, but you may mark your address as confidential. There is a required civil cover sheet, kept in the Court's sealed portion of the record, where the Court will need your address – but that sheet is not given to the adverse party.

The protection order application asks you to list specific locations where you are seeking protection. If you are afraid to divulge that information to the adverse party, you can indicate that the information is “confidential” and not list the information in your application.

CAUTION! Listing information as “confidential” could limit law enforcement’s ability to enforce your order. For example, if your order requires the adverse party to stay away from your work, but that address isn’t listed in your protection order, police may be reluctant to arrest the adverse party if he/she shows up at your work because he/she may not know he/she is required to stay away from that location.

If you are a victim of sexual assault and have concerns about your privacy, you can explore the Nevada Secretary of State’s Confidential Address Program (CAP). For more information, call 775-684-5707 or toll free at 888-432-6189.

Can I get a protection order without notifying the adverse party?

A temporary protection order can be granted without notice to the adverse party. However, the court may require a hearing before deciding whether to grant a temporary order.

An extended protection order cannot be granted without notice to the adverse party and a hearing.

How long does a protection order last?

Most protection orders will expire no later than 45 days after the order is signed, although the justice of the peace may select a shorter time. If the order is not served before it expires, the justice of the peace may extend the temporary protection order to allow additional time to serve the adverse party.

Depending on the type of order, an extended protection order must expire one to three years after a justice of the peace signs the extended order. If the applicant files for an extended protection order, the temporary order remains in effect until the hearing on the extended order is held.

The date that an order expires is listed on the front of the order.

How do I apply for an extended protection order?

The application has a place to make your request to extend the order.

If you initially choose not to ask for an extended order, and would like to extend it, you must file a motion to extend before the temporary expires. If the motion to extend the protection order is filed within the period of a temporary order (in other words, before the TPO expires), the temporary order remains in effect until the hearing on the extended order is held.

An extended order cannot be issued after a temporary order has expired.

Can I get an Extended Order if the Temporary Order has lapsed?

The Court cannot issue an extended order if the temporary order has already expired. If the temporary order has expired, then the applicant must reapply and start over.

Does the adverse party have any legal remedies once the protection order is issued?

The adverse party has three options after the protection order is issued:

1. The adverse party can file a **Motion to Dissolve** the protection order, and the court may schedule a hearing on the motion. The applicant can appear at the hearing to oppose the adverse party's motion. If the Motion to Dissolve is granted after a hearing, the protection order will become immediately void and unenforceable.
2. The adverse party can file a **Motion to Modify** the protection order, and the court might schedule a hearing on the motion.

For Motions to Dissolve or Motions to Modify, the applicant must be given a copy and at least 2 days' notice before any ruling. Typically, the Justice of the Peace will either deny the motion immediately or set the request for a hearing. Notice of Hearing and a copy of the motion will be served by mail.

3. If an extended order protection order is issued, the adverse party can file an **appeal** to the district court, and the district court might affirm, modify or vacate the order. The extended protection order remains in effect during any appeal, unless the court orders otherwise. There are strict requirements and deadlines for an appeal, you are advised to consult an attorney with any questions regarding an appeal.

If the adverse party violates the protection order, what should I do?

If the adverse party violates the protection order, you should call the police and report the incident immediately.

In addition, you can file a motion to hold the adverse party in contempt of court. The adverse party must be given a copy of the **Motion for Contempt** and at least 2 days' notice before any ruling. Typically, the Justice of the Peace will either deny the motion immediately or set the request for a hearing. Notice of Hearing and a copy of the motion will be served by mail and/or personally served as required by law.

What is the criminal penalty for violating a protection order?

For a Protection Order Against Domestic Violence:

Any person who intentionally violates a temporary protection against domestic violence order is guilty of a misdemeanor, which is punishable by not more than six months in jail and up to \$1,000 fine. (NRS 33.100)

Any person who intentionally violates a protection order against domestic violence is guilty

of a gross misdemeanor (unless a more severe penalty is provided by law for the act that constitutes the violation), which is punishable by not more than one year in jail and up to a \$2,000 fine. (NRS 33.100)

Any person who intentionally violates an extended protection order against domestic violence is guilty of a category D felony (unless a more severe penalty is provided by law for the act that constitutes the violation), which is punishable by one-to-five years in Nevada State Prison and up to a \$10,000 fine. (NRS 33.100)

If the act that constitutes the violation of a protection order against domestic violence is itself a felony, the adverse party can be punished by imprisonment in the state prison “for a term equal to and in addition to the term of imprisonment prescribed by statute” for the act that constitutes the violation. (NRS 193.166)

For violations of most other types of protection orders:

Any person who intentionally violates a temporary protection order is guilty of a gross misdemeanor (unless a more severe penalty is provided by law for the act that constitutes the violation), which is punishable by not more than one year in jail and up to a \$2,000 fine.

Any person who intentionally violates an extended protection order is guilty of a category C felony (unless a more severe penalty is provided by law for the act that constitutes the violation), which is punishable by one-to-five years in Nevada State Prison and up to a \$10,000 fine

In addition, a person who violates a protection order may also be held in contempt of court and punished by a fine of up to \$500 and imprisonment up to twenty-five days. (NRS 22.100) Criminal contempt may also be prosecuted as a misdemeanor criminal case, punishable by imprisonment in jail for up to six months and a fine of up to \$1,000.

How does a protection order application move through the court?

The flowchart attached shows how a protection order moves through the court after it is filed.

RESOURCES

If you need assistance completing your application, you may be able to receive help from the following non-profit organizations:

Family Support Council
1255 Waterloo Lane
Gardnerville NV 89410
775-782-8692
www.family-support.org

Advocates to End Domestic Violence
PO Box 2529
Carson City NV 89702
775-883-7654
www.aedv.org

Nevada Legal Services
775-284-3491 or 775-883-0404
www.nlslaw.net

Volunteer Attorneys for Rural Nevadans
775-883-8270
www.varn.org