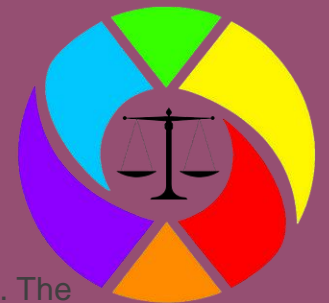


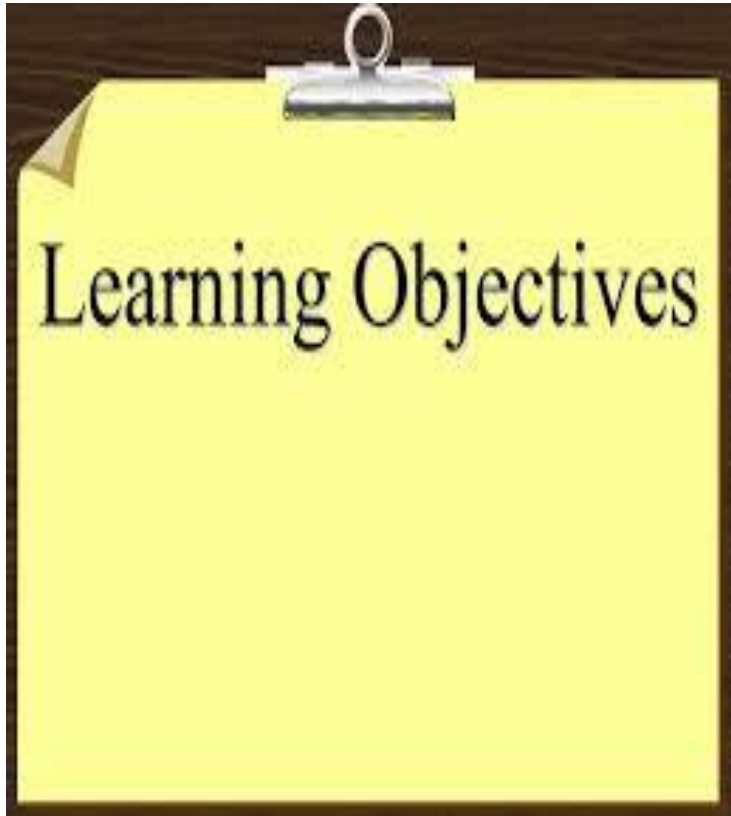


# Orders of Protection

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This project was supported by Grant No. 2019-WE-AX-0009 awarded by the Office on Violence Against Women, U.S. Department of Justice. The opinions, findings, conclusions, and recommendations expressed in this publication/program/exhibition are those of the author(s) and do not necessarily reflect the views of the Department of Justice, Office on Violence Against Women.



- Differentiate between Orders of Protection and types of No Contact Orders.
- Describe the remedies available through Orders of Protection and No Contact Orders in Illinois
- Understand violations and enforcement of Orders of Protection.
- Identify PWEH's considerations for safety and Coordinated Community Response tactics.

# IDVA Illinois Domestic Violence Act of 1986



IL Domestic Violence laws general provisions: (750 ILCS 60; 725 ILCS 5)

- Recognize DV as a serious crime
- Supports safety efforts of DV victims to avoid further abuse by entering & enforcing court orders
- Clarify responsibility and support of Law Enforcement
- Expand Civil and Criminal remedies for victims of DV

# IDVA Illinois Domestic Violence Act of 1986



Amplified and clarified key issues in original IDVA of 1982, including

- What constitutes abuse
- Who is protected



# Order of Protection Introduction

An OP is a court order designed to protect family or household members against abuse.

## Abuse is defined as:

- Physical abuse
- Harassment
- Intimidation of a dependent
- Interference with personal liberty
- Willful deprivation





# Order of Protection Introduction

## Family or household members include:

- current/former spouses,
- parents, children,
- step-children and
- other persons related by blood or by present or prior marriage,
- persons who share or formerly shared a common dwelling,
- child in common relationship,
- current or former dating relationship,
- persons with disabilities and their personal assistant and caregivers.



# Order of Protection Introduction

- An OP **prohibits** respondents from committing certain acts and may **require** respondents to perform certain acts
- An OP does not require compliance by the petitioner
- A person of domestic violence may petition a civil, criminal or juvenile court



# Types of Protective Orders

<b>Domestic Violence Orders of Protection</b>	<b>Civil No Contact Orders CNCO</b>	<b>Stalking No Contact Orders SNCO</b>
<b>Domestic Violence</b>	<b>Sexual Assault</b>	<b>Stalking/Harassment</b>
<p>Requires a family or household member relationship</p> <p>Must allege abuse or threat of abuse.</p>	<p>Does not require a relationship</p> <p>Must allege non-consensual sexual conduct or penetration</p>	<p>Does not require a relationship</p> <p>Must allege 2 or more acts or threats of stalking and/or harassment</p>



## *Who is eligible for these protections?*

## *Remedies & Protections*

## *Violations*

### **Domestic Violence Order of Protection**

Family or household members who:

- are related by blood, or by current or former marriage to the offender;
- share or shared a common home with the offender;
- have or allegedly have a child in common with the offender;
- share or allegedly share a blood relationship to the offender through a child;
- have or had a dating relationship or engagement with the offender; or
- are high risk adults with disabilities abused by a family member or caregiver.

The judge can grant up to 18 remedies, from prohibiting further abuse to ordering the offender to stay away, revoking a FOID card, protecting property and pets, requiring financial support, providing temporary care of children, and ordering exclusive possession of the home.

The first violation of a Domestic Violence Order of Protection is a Class A misdemeanor. A subsequent violation or a violation following other domestic convictions is a Class 4 felony.

### **Sexual Assault Civil No Contact Order**

Any person who is a victim of nonconsensual sexual conduct or sexual penetration.

These orders also can protect the following people:

- Family or household members of a victim; and
- Rape crisis center employees and volunteers.

The judge can grant any or all of the following remedies:

- Prohibit contact with the victim;
- Order the offender to stay away from victim generally and/or to stay away from specific locations;
- Protection of property and pets;
- Order the offender to transfer to another school if the victim and offender attend the same school;
- Other injunctive relief necessary to protect the victim.

The first violation of a Sexual Assault Civil No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.

### **Stalking No Contact Order**

Any person who is the victim of a course of conduct that causes the victim to fear for his or her safety or the safety of another person, or to suffer emotional distress, and relief is not available to the victim through the Illinois Domestic Violence Act or through a Sexual Assault Civil No Contact Order.

The judge can grant any or all of the following remedies:

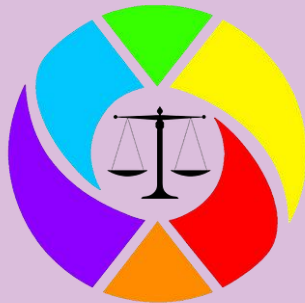
- Prohibit further stalking or threats of stalking;
- Prohibit contact with the victim;
- Order stalker to stay away from specific locations;
- Prohibit stalker from having FOID card and owning firearms;
- Other injunctive relief necessary to protect the victim.

Attorneys' fees are the only financial remedy available.

The first violation of a Stalking No Contact Order is a Class A misdemeanor. A subsequent violation is a Class 4 felony.

# Domestic Violence Orders of Protection (OP)

750 ILCS 60

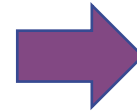


## Family or household members

- current/former spouses,
- parents,
- children,
- step-children and other persons related by blood or by present or prior marriage,
- persons who share or formerly shared a common dwelling,
- child in common relationship, current or former dating relationship,
- persons with disabilities and their personal assistant and caregivers

## Eligibility

**OR**



**On behalf of** a family or household member who has been abused, neglected or exploited but because of age, health or disability **can not file the petition**

**AND**



Experienced recent Incident of alleged abuse and/or threat of abuse

# Court Terms



**Person who caused  
harm/perpetrator is the  
Respondent**

**Person who  
experienced  
harm/Victim is the  
Petitioner**

Person who allegedly  
committed abuse

Person Asking court for  
relief from abuse



**Domestic  
Orders of  
Protection**

**Emergency OP**  
**Interim OP**  
**Plenary OP (final)**

# Emergency OP

1

Requires **recent incident** of abuse by respondent

2

**Valid for 14-21 days** from issuance date until Plenary OP hearing date

3

May be entered **without notifying respondent** for safety consideration of victim

4

Remedies **NOT** granted: counseling, temporary custody, payment/support , monetary compensation or reimbursement of shelter costs

5

Respondent will be **served summons for notice of Plenary OP hearing**

# Interim OP

1

**Valid for up to 30 days** or term length identified by judge

2

**Issued after**

- respondent is served or after the
- petitioner has served notice on the respondent
- notice by publication

3

**Remedies that may be available**

- counseling,
- payment of support,
- monetary,
- reimbursement of shelter costs or compensation

# **Plenary (final) OP**

1

Respondent must be served summons/notice of hearing

2

Default order can be entered if Respondent does not appear

3

Issued after hearing attended by both petitioner & respondent or after notice by publication process

4

Entered for up to 2 years

5

Petitioner may motion to extend Plenary OP for good cause

6

All remedies can be court ordered at Plenary hearing



# Court Enforced

## Remedies & Protections



- Physical care and possession of a minor child
- Temporary legal custody of a minor child
- Parenting time (formerly visitation)
- Possession of personal property
- Protection of property and pets
- Order of payment of support/economic remedies
- Payment for losses
- Prohibition of access to records
- Payment of shelter services
- Counseling
- Order to appear in court
- Order for other injunctive relief

# Police Enforced

## Remedies & Protections



- Prohibition of abuse
- Exclusive possession of a residence.
- Stay away order and additional prohibitions.
- Prohibition of Entry to household while under the influence or threatening .
- Prohibition of firearm possession/Revoke FOID card

- Enforced by law enforcement in other jurisdictions, states, etc.
- Each state must enforce out-of-state orders of protection in the same way it enforces its own orders.

## Full Faith & Credit



# Violation of an Order of Protection



**A person commits a violation of an order of protection if:**

- He or she commits an act which was prohibited by a court,
- or fails to commit an act which was ordered by a court
- in violation of a remedy in a valid order of protection.



# Prosecution Considerations

The State's Attorney's Office has discretion to decide whether violation of order of protection criminal charges should be brought against the abuser

## Violations & Enforcement



- First offense is a Class A Misdemeanor.
- Subsequent violation or violation following other domestic convictions is a Class 4 Felony.
- The standard for a criminal conviction is beyond a reasonable doubt.

## Violations & Enforcement



Evidence of the violation will be needed:

- Video evidence
- Voice or electronic messages or communications
- Photographs
- Testimony of survivor and other witnesses

## Violations & Enforcement



# Civil No Contact Orders

(740 ILCS 22)  
(CNCO)





# Who is protected?

- Does NOT require a significant relationship
- Any person who experiences non-consensual sexual conduct or non-consensual sexual penetration, or
- By a person on behalf of a minor child or adult who experiences non-consensual conduct or non-consensual sexual penetration, but, because of age, disability, health, or inaccessibility, cannot file the petition

Eligibility





## Eligibility

### These orders can ALSO protect

- Household members of a person who experiences nonconsensual sexual contact
- Employee or volunteer at a Rape Crisis Center that is providing services

# Emergency CNCO

## Issuance & Duration

- **Requires recent incident** of nonconsensual sexual conduct
- **Valid for 14-21** days from issuance date until Plenary CNCO hearing date
- **May be entered without notifying respondent** for safety consideration of person who experiences the abuse
- **Respondent will be served summons** for notice of Plenary CNCO hearing

## Issuance & Duration



# Plenary CNCO (Final)

- Court date set at creation of emergency or interim CNCO
- Respondent must be served summons/notice of hearing
- Issued after respondent is served and after hearing is attended by both petitioner & respondent or after notice by publication process
- Entered for 1 or 2 years
- Petitioner may motion to extend Plenary CNCO after their duration for good cause

- Stay away from Petitioner and/or specific locations
- Prohibit contact (direct, indirect, through third parties)
- Order Respondent to transfer schools if parties attend same school
- Protection of property and pets
- Other injunctive relief necessary to protect Petitioner

## Remedies & Protections



**Does NOT include economic, property or child related remedies**

## Violations & Enforcement



## A person commits violation of a civil no contact order if:

- he or she knowingly commits an act which was prohibited by a court
  - or fails to commit an act which was ordered in violation of a valid civil no contact order

# Violations & Enforcement



## The violation occurs:

- after the offender has been served notice of the contents of the order
- or otherwise has acquired actual knowledge of the contents of the order.



# Violations & Enforcement



## Violations

- First Violation is a Class A Misdemeanor
- Subsequent violation is a Class 4 Felony

# **Stalking No Contact Orders**

**(740 ILCS 21)**  
**SNCO**





# What is Stalking?

A pattern of behavior directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

## **Eligibility**

### **Who is Eligible?**

- Any person who experiences stalking
- A person on behalf of a minor child or an adult who experiences stalking but because of age disability, health or inaccessibility, cannot file the petition
- An authorized agent of a workplace, place of worship, or school.

## Emergency SNCO

### Issuance & Duration

- 1 Requires **TWO (2) recent incidents** of stalking and/or harassment conduct
- 2 **Valid for 14-21 days** from issuance date until Plenary SNCO hearing date
- 3 May be **entered without notifying respondent** for safety consideration of victim
- 4 **Respondent will be served summons for notice** of Plenary SNCO hearing

## Issuance & Duration

### Plenary (final) SNCO

- 1 Court date set at emergency or interim SNCO
- 2 Respondent must be served summons/notice of hearing
- 3 Issued after respondent is served and after hearing is attended by both petitioner & respondent or after notice by publication process
- 4 Entered for 1 or 2 years
- 5 Petitioner may motion to extend Plenary SNCO

## **Remedies & Protections**



- Prohibit the respondent from threatening to commit or commit stalking or harassment.
- Prohibit contact with petitioner
- Order Respondent to stay away from specific locations
- Prohibit possession of FOID or firearms
- Other injunctive Relief to protect victim from stalking



## Violations & Enforcement



## A person commits violation of a SNCO order if:

- he or she knowingly commits an act which was prohibited by a court or fails to commit an act which was ordered in violation of a valid stalking no contact order, *and*
- the violation occurs after the offender has been served notice of the contents of the order or otherwise has acquired actual knowledge of the contents of the order.

## **Violations & Enforcement**



## **Consequences:**

- First Violation is a Class A Misdemeanor
- A subsequent violation is a Class 4 Felony

# ACTIVITY: IT'S JUST A PIECE OF PAPER

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# Community Response



# Law Enforcement Responsibilities

(IDVA -750 ILCS 60/304)



Whenever a law enforcement officer has reason to believe that a person has been abused, neglected, or exploited by a family or household member, the officer shall immediately use all reasonable means to prevent further abuse, neglect, or exploitation.

# Law Enforcement Responsibilities

(IDVA -750 ILCS 60/304)

## Officers **MUST**



- ☐ **Arrest** if probable cause (includes domestic violence offenses and VOPs)
- ☐ **Document and preserve evidence/seize weapons**
- ☐ **Accompany the person experiencing violence** to retrieve necessary belongings
- ☐ **Offer the person experiencing violence** a summary of the procedures and relief available to victims of abuse and the officer's name and badge number
- ☐ **Provide the person experiencing violence** with one referral to an accessible service agency



## Enforcement Responsibilities (cont.)


### Officers Must Also



- ☐ Advise the person experiencing abuse about seeking medical attention and preserving evidence

## Enforcement Responsibilities (cont.)

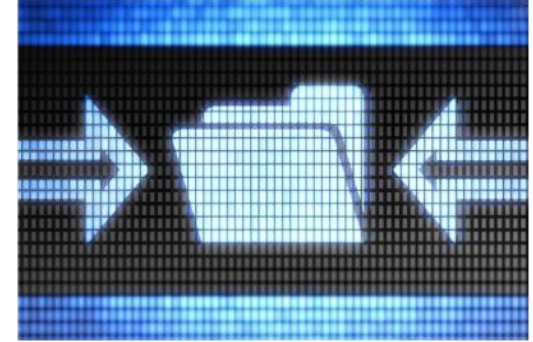
### Officers Must Also

- 
- ☐ Provide or arrange **accessible transportation** for the person experiencing abuse to a **medical facility** for treatment of injuries or to a nearby **place of shelter or safety**; or,
  - ☐ after the close of court business hours, providing or arranging for **transportation** for the victim to the nearest available **circuit judge or associate judge** so the victim may file a **petition for an emergency order of protection**

# Circuit Clerk Responsibilities

(IDVA -750 ILCS 60/304)

## Circuit Clerks Must



- ☐ Send summons to Sheriff's Office on the same day
- ☐ File certified copy of OP with daycares, pre-school, private schools, school districts, universities and colleges of petitioner's children (if requested in order)
- ☐ File certified copy with health care practitioners and facilities provided by petitioner (if requested in order)

# Sheriff's Office Responsibilities

(IDVA -750 ILCS 60/304)

## Sheriff's Must



- ☐ Enter into LEADS on the same day
- ☐ Promptly serve Respondent order



# Court / Judicial Responsibilities

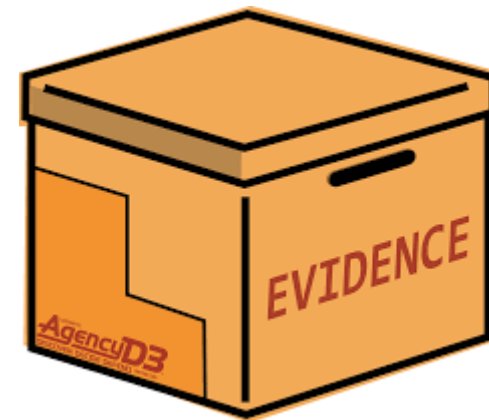
(725ILCS5/112A)

**The Court (Judge) shall issue a final protective order if there is prima facie evidence of the crime of domestic violence, a sexual offence or stalking/harassment.**



## Collecting Prima Facie Evidence

- 911 Recordings
- Jail Recordings/Phone Records
- Written or taped statements of victim and witnesses
- Medical Records
- Letters, emails, photos
- GPS devices



# Considerations of People who experience harm





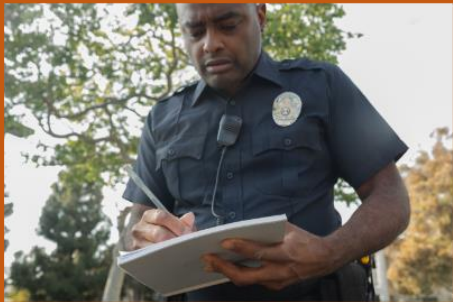
# Risk Assessment



Assess for signs of higher risk situations or situation that may be lethal.



# Risk Assessment

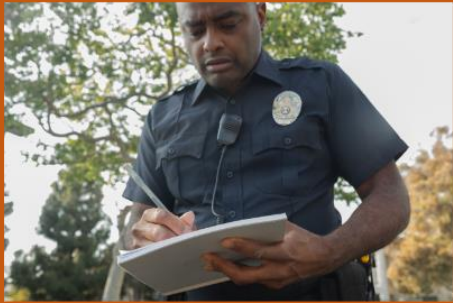


## Common DV Risk Assessment questions:



- ☐ Have they ever used a weapon against you or threatened you with a weapon?
- ☐ Have they threatened suicide or homicide?
- ☐ Have they ever choked/strangled you?
- ☐ Do they have a criminal record that includes assaults or crimes of violence?
- ☐ Do they control your activities or stalk you?
- ☐ Is the abuse increasing in frequency and/or severity?

# Risk Assessment



**Any “yes” answers –**

**or if you believe the victim is in  
potentially unsafe situation –**

**should result in referral for DV  
services**

# Safety is the #1 Goal!

In the US, research indicates that women who leave the person who causes harm are at **75% greater risk of being killed** than those who stay

**Safety  
Planning**

- PWEH are the experts in their situation and only they can weigh the benefits and potential risks of filing an OP, leaving a relationship, etc.
- Give information and empower a PWEH to make informed decisions for themselves.

## Safety Planning



# Safety Planning

**Safety plans should start with the assumption that an abuser is dangerous and build on what the survivor is already doing to survive.**



# Safety Planning



## Safety plans should identify:

- “safe word”
- safe places and people
- essential items to take if need/decide to leave
- where essential items are located
- how to be safe at home/community (change locks, change routines, new phone, etc.)
- ways to keep children safe
- local DV crisis resources and legal rights

# Connecting to Resources

## Help make the connection:

- ✓ offer to call
- ✓ take to source of support
- ✓ make follow-up calls/visits
- ✓ share resources-safely





# Connecting to Resources

## Important resources in your area:

### Local Shelters/DV Programs

- Enter your local program

### Hotlines

- Enter local program
- ILDV Hotline (877)TO END DV; 877-863-6338
- National DV Hotline (800)799-7233

### State Coalitions

- ICADV (Illinois Coalition Against Domestic Violence), 217-789-2830, [www.ilcadv.org](http://www.ilcadv.org)

# Order Forms

[Illinois Courts Website with more info for  
Domestic Violence Orders of Protection](#)

[Domestic Violence Order of Protection Form](#)

[Civil No Contact Order Form](#)

[Stalking No Contact Order Form](#)



# Questions

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