

Chesapeake General District Court, Criminal Division Protective Order Filing Information

1. What are protective orders?

Protective orders are legal documents issued by a judge or magistrate to protect the health and safety of a person who is alleged to be a victim of any act involving violence, force or threats that results in bodily injury or places that person in fear of death, sexual assault or bodily injury. A petitioner files a request for a protective order against respondent.

There are three kinds of protective orders to protect you and others in your family or household:

- **Emergency Protective Order (EPO)** – Usually issued by a magistrate, these expire at the end of the third day following issuance or the next day court is in session, whichever is later (72 hours). This is intended to allow time for a preliminary protective order (PPO) to be filed with the court.
- **Preliminary Protective Order (PPO)** – Temporary protective order that lasts 15 days or until notice to the respondent and a full hearing. A petition must be filed with the court to obtain a PPO.
- **Protective Order** – A full protective order can be issued by a judge for up to two years after both parties have notice and the opportunity to be heard in court.

A protective order can:

- Prohibit acts of violence, force, or threat or criminal offenses that may result in injury to person or property.
- Prohibit such other contact with the Petitioner as the judge deems necessary for the health and safety of the Petitioner.
- Prohibit such other contact with the Petitioner's family or household members as the judge deems necessary for their health and safety.
- Order any other conditions the judge may deem necessary to prevent acts of violence, force, or threat, criminal offenses resulting in injury to person or property, or communication or other contact of any kind by the respondent.

Protective orders DO NOT REPLACE CALLING 911 IF YOU FEEL YOU ARE IN DANGER. It may help with police response if you have to call 911.

NOTE: If you are under 18 years of age, this information does not apply to you. Go to the I-CAN! Virginia website by visiting www.courts.state.va.us and click on "Online Services", then, "Assistance with Protective Orders (I-CAN!)". The direct link is: www.ican.courts.state.va.us. You can also contact the Chesapeake City Juvenile and Domestic Relations Court at (757) 382-8100.

2. Where is the court located?

The Chesapeake General District Court is located at:

307 Albemarle Drive
Chesapeake, VA 23322
(757) 382-3134

Specifically, protective orders are filed in the Criminal Division, on the 1st floor.

3. If I file for a criminal warrant (such as assault or stalking) with the Magistrate's Office, can I ask for an Emergency Protective Order?

Yes, this is usually done by the magistrate and is in effect for 72 hours. The magistrate's office is open 24 hours a day, 7 days a week. They may be contacted by calling (757) 382-6534.

4. What do I do after obtaining an Emergency Protective Order?

If you would like the protective order to be extended, you must petition the court for a preliminary protective order. This order is temporary, meant to protect you until a full hearing can be held.

5. What do I need to do to obtain a preliminary protective order?

Several forms must be completed to obtain a preliminary protective order. These forms are available at the criminal clerk's office, and can be completed at the court or taken home to complete. You can obtain help from someone else in completing the forms, but you must be present to file them. Court personnel are happy to assist you, **but are not able to give legal advice.**

When all of the appropriate forms have been completed, the clerk will contact Victim Witness who will escort you to the courtroom. The judge will review the forms and may ask you questions. If the court enters the preliminary protective order, a court date will be set within 15 days and notice of the hearing will be served on the respondent.

6. Can I get the forms online?

Yes, the Supreme Court of Virginia has an online program that can be accessed by going to www.courts.state.va.us, clicking on "Online Services," on the left side, and then clicking, "Assistance with Protective Orders (I-CAN!). There are computer terminals available in the lobby of the courthouse if you prefer to complete the forms online while at the courthouse. This program will assist you in completing several of the forms needed to file a preliminary protective order. The Chesapeake General District Court does have a supplemental affidavit (written statement describing the event) that will need to be completed when you arrive at the courthouse.

7. Is there a filing fee?

No fee is required.

8. What should I bring to court with me?

The court will need the **full name and address** of the person from whom you are seeking protection. A full and complete (home or work) address of the person is required. Failure to include a complete address could cause a delay in processing your protective order request.

You should bring as much information as you can about the person from whom you are seeking protection. This information includes:

- Respondent's name, address, phone number
- Workplace, work address, work phone
- Race, sex, date of birth, height, weight, eye color, hair color, social security number

9. What time should I be at the courthouse and how long will it take?

The courthouse is open from 8:00 a.m. until 4:00 p.m. You should expect to be at the courthouse approximately 1 -2 hours.

10. Do I need a lawyer to file for a Preliminary Protective Order?

No, you do not need a lawyer to file a preliminary protective order. If you would like to hire a lawyer to represent you at your hearing where both parties are present, you may do so. A Protective Order is a civil matter, so you need to be aware that there is no prosecutor or court-appointed attorney to assist you with your case in the courtroom. Court clerks are not attorneys and they cannot give you advice on what type of information you need to provide at your hearing. Victim Witness Services may be able to provide you with certain guidance, but they cannot give legal advice either. You may hire an attorney, or if you have legal questions or need advice, you may wish to speak with an attorney. If you

do not have the name of an attorney, you may want to call the Virginia Lawyer Referral Service, (800) 552-7977. For a small fee, an attorney will advise you on how to best proceed with your request for a Preliminary Protective Order. If you have limited income or are age 60 or older, you may qualify for free assistance from Legal Aid Services, (757) 552-0026.

11. If my preliminary protective order is granted, when does it take effect?

If the petition is granted, a hearing will be set. The preliminary protective order takes effect only after the respondent has been personally served by a law enforcement officer. This means the officer must give the order directly to the person. If you obtain a better address or additional information that would help the Sheriff make service, contact the Criminal Division immediately (757) 382-3137. As the petitioner, you **MUST** be present at the scheduled hearing if you would like to proceed with the protective order, regardless of whether or not the respondent has been served.

12. Why are preliminary protective orders sometimes denied?

The criteria for preliminary protective orders are very specific and must be met before a judge can authorize one. If the petitioner fails to prove that they have been a victim of an act of violence, force, or threat or that the respondent places them in reasonable fear of death, sexual assault, or bodily injury, the preliminary protective order will be denied.

13. Who should I bring with me to court?

You are not required to bring witnesses when filing the preliminary protective order; however, you should bring the names and addresses of any witnesses with you.

14. Are children allowed in the courthouse?

Although children are allowed in the courthouse, you are discouraged from bringing young children with you to court. If you must bring them, please bring an adult to supervise.

15. What should I not bring with me?

All persons entering the courthouse will be searched and all bags and other items will be passed through an x-ray machine. Weapons such as knives and guns are prohibited inside the courthouse. Cell phones, cameras, video cameras, photographing, recording or similar equipment is prohibited inside the courthouse. Advise the criminal division before your hearing date if any of the above listed items are needed as evidence in your case.

16. What should I do with the order?

Keep your copy of the order in a safe place, somewhere that you will have it with you at all times. The police or magistrate will need to see a copy of it if there is a violation. You should also request copies for any other protected family or household members listed on the order. Please ask the clerk's office if you need any additional copies and they will be provided at no charge.

17. What should I do if the protective order is violated?

You should immediately call 911 and tell them you have a protective order and the respondent is violating it. You may also file violation charges with the magistrate.

18. What should I do to prepare for my full protective order hearing (where both parties are before the judge)?

You will need to testify and provide evidence to prove to the judge that full Protective Order should be authorized for up to two years. Prepare for your hearing and plan to arrive no later than 30 minutes prior to your court time. If you need someone to testify on your behalf, a Witness Subpoena form is available at the criminal window. Witness subpoenas should be filed at least ten days before your court date. There is no charge for subpoenaing a witness. You may bring your witnesses with you without filing a witness subpoena beforehand. You should bring any evidence you have with you on the court date.

You must be present on the court date in order for the protective order to go forward. If the respondent has not been served, the judge may extend the preliminary protective order up to 6 months. If the respondent has been served but is not present on the court date, the judge may issue a permanent protective order for up to two years. If the respondent is present on the court date and contests the issuance of permanent protective order, a trial will take place. The judge will then either grant or deny a permanent protective order.

19. What should I do if I do not agree with the judge's final decision?

Either party may appeal the judge's decision after the hearing. An appeal must be noted within 10 calendar days of the decision. The appeal must be noted in writing. There is no fee to appeal a case. The Chesapeake City Circuit Court hears all appeals, and they must be contacted with any questions after a case has been appealed. The number for Chesapeake Circuit Court is (757) 382-3000.

20. Can I use a protective order to evict a tenant?

No. Protective orders are not intended to be used to have a tenant evicted from a property. Eviction procedures can be obtained from the Civil Division at 757-382-3146.

21. Important Phone numbers:

- **Victim Witness Services – (757) 382-6417**
- **Virginia Lawyer Referral Service – (800) 552-7977**
- **Legal Aid Services – (757) 552-0026**

This information is not intended as legal advice.