Protection from Domestic Violence

The Florida legal system can help you stop abuse and protect you from violence. An “injunction” is a court order that requires an abuser to have no contact with you. If you are a victim of violence, or if you have reason to believe you will become a victim, consider reporting it to the police and asking the court for an injunction. Each situation involving violence is different, and you should do the safest thing for you.

Florida law has different types of injunctions for people who have experienced particular forms of violence, based on various kinds of relationships with their abuser:

- Domestic Violence Injunctions,
- Dating Violence Injunctions,
- Repeat Violence Injunctions,
- Stalking Injunctions,
- Sexual Violence Injunctions, and
- Injunction for Protection Against Exploitation of a Vulnerable Adult.

If you need immediate help with protection from violence, please contact the Florida Domestic Violence Hotline at 1-800-500-1119

Call the Hotline

What are your rights?

I. Domestic Violence Injunctions.

A Domestic Violence Injunction is for people who have a family relationship. A family relationship is established by living together (or having lived together). People who have not lived together but have a child in common can also receive a Domestic Violence Injunction.

The person seeking protection must have been a victim of domestic violence committed against them by the other party. Domestic violence includes:

- assault,
- aggravated assault,
- battery,
- aggravated battery,
- sexual assault,
- sexual battery,
- stalking,
- aggravated stalking,
- kidnapping,
- false imprisonment, or
- any criminal offense resulting in physical injury or death.

A person may also receive a final injunction if they can prove that they are in immediate danger of becoming a victim of violence, even though there has not been any recent violence.

Considerations in a Domestic Violence Injunction.

When deciding whether to issue a Domestic Violence injunction, the court will consider:

- Recent acts of violence or threats of violence.
- The prior history of violence or stalking by the responding party.
- Whether the responding party has made threats of violence.
- Whether the responding party has a criminal history of violence.
- If the responding party has threatened to kidnap or conceal the parties' children.
- Whether the responding party has intentionally injured or killed a family pet.
- Whether the responding party has destroyed property that belongs to the person requesting the injunction.
- Whether the responding party has a substance abuse problem or mental health problem.

Final Judgment of Injunction for Protection Against Domestic Violence.

A final Domestic Violence Injunction may order:

- No contact or no violent contact.
- For the responding party to leave the home the parties shared.
- For the person seeking the injunction to have all or most of the time with the parties' child.
- For the person seeking the injunction to make all of the decisions regarding the children.
- For the responding party to pay child support or alimony during the term of the injunction.
- For the responding party to surrender their guns and ammunition.
- For the responding party to attend a Batterers' Intervention Program or to undergo a mental health evaluation.
- To award the petitioner the exclusive care, possession, or control of an animal that is owned, possessed, harbored, kept, or held by the petitioner, the respondent, or a minor child in the residence or household of either party. The court may order the responding party to have no contact with the animal and prohibit them from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.
    - This does not apply to an animal owned primarily for a bona fide agricultural purpose, or to a service animal if the responding party is the service animal's handler.

II. Dating Violence Injunction.

A Dating Violence Injunction is an injunction for people who have had a dating relationship within the last six months. A dating relationship is one that is romantic or intimate. The parties do not have to have lived together. A parent may file a Dating Violence Injunction on behalf of a child that lives at home.

The person seeking protection must have been a victim of domestic violence committed against them by the respondent. Domestic violence includes:

- assault,
- aggravated assault,
- battery,

- aggravated battery,
- sexual assault,
- sexual battery,
- stalking,
- aggravated stalking,
- kidnapping,
- false imprisonment, or
- any criminal offense resulting in physical injury or death.

A person may also receive a final injunction if they can prove that they are in immediate danger of becoming a victim of violence, even if there has been no recent violence.

Considerations in a Dating Violence Injunction.

In deciding whether to issue a Dating Violence injunction, the court will consider:

- Recent acts of violence or threats of violence.
- Prior history of violence or stalking by the responding party.
- Whether the responding party has made threats of violence.
- Whether the responding party has a criminal history of violence.
- Whether the responding party has intentionally injured or killed a family pet.
- Whether the responding party has destroyed property that belongs to the person requesting the injunction.
- Whether the responding party has a substance abuse problem or mental health problem.

Final Judgment of Injunction for Protection Against Dating Violence.

A final Dating Violence Injunction may order:

- No contact or no violent contact.
- The responding party may also be ordered to surrender their guns and ammunition.

III. Repeat Violence Injunction.

A Repeat Violence Injunction is an injunction for people who do not have a family relationship, who have not lived together, and who have not dated. For example, these injunctions are sometimes filed by people who have been harassed or harmed by their neighbor. A parent may also file a Repeat Violence Injunction on behalf of a child if the child lives in the home with them.

Considerations in a Repeat Violence Injunction.

The person seeking protection must have been a victim of **two** acts of violence committed by the responding party. One of the acts of violence must have occurred within the last six months. A person may also receive a Repeat Violence Injunction if the violence was committed upon an immediate family member of the requesting party.

Final Judgment of Injunction for Protection Against Repeat Violence.

A final Repeat Violence Injunction may order:

- No contact or no violent contact.
- The responding party may be ordered to surrender their guns and ammunition.

IV. Stalking Injunction.

A Stalking Injunction is for protection against stalking/cyberstalking and can be obtained against anyone, regardless of your relationship to the other person. In some cases, the stalker may be a former friend, a co-worker, or a jealous new partner of the requesting party's ex-spouse. Stalking is something that happens more than once, and is when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person with no legitimate purpose.

- **Harassment** is when someone commits a series of acts over a period of time against you which cause you to have substantial emotional distress (and the acts serve no legitimate purpose).
- **Cyber stalking** is when someone commits a series of acts that communicate (or cause to be communicated) words, images, or language through email or other electronic communication that is directed at you, causing you substantial

emotional distress.

Some examples listed on the court petition of what behaviors/acts may qualify someone for an injunction:

- Previously threatened, harassed, stalked, cyberstalked, or physically abused the petitioner.
- Threatened to harm the petitioner, or family members or individuals closely associated with the petitioner.
- Intentionally injured or killed a family pet.
- Used, or threatened to use, against the petitioner any weapons such as guns or knives.
- Destroyed personal property, including, but not limited to, telephones or other communication equipment, clothing, or other items belonging to the petitioner.

Final Judgment of Injunction for Protection Against Stalking.

To receive a final stalking injunction, you need to be able to prove the responding party has harassed you on more than one occasion, followed you on more than one occasion, or harassed you online on more than one occasion

A final Stalking Injunction may order:

- No contact or no violent contact.
- The responding party may be ordered to surrender their guns and ammunition.
- The responding party may be required to undergo treatment or counseling.

V. Sexual Violence Injunctions.

You may file for an injunction against sexual violence if you are the victim of sexual violence committed by someone else. Also, a person may seek a Sexual Violence Injunction against a person incarcerated for the sexual violence and whose prison term has ended or is set to end within 90 days.

A parent may file a Sexual Violence Injunction on behalf of their child. If your minor child was a victim of sexual violence, you can file on behalf of them only if they still live at home and you are the parent or legal guardian.

Sexual violence means sexual battery, a lewd or lascivious act upon or in the presence of a person younger than 16, luring or enticing a child, and sexual performance by a child regardless of whether the State Attorney files charges.

Considerations in a Sexual Violence Injunction.

To receive a final Sexual Violence Injunction, the requesting party must prove they have been a victim of an act of sexual violence. Proving sexual violence does not necessarily require anything beyond telling the court what happened. To receive a final Sexual Violence Injunction, the requesting party must also report the sexual violence and cooperate with law enforcement after having made the report.

The person requesting the injunction must cooperate with law enforcement after reporting the incident, regardless of whether the state attorney files, reduces, or dismisses criminal charges based on sexual violence.

Final Judgment of Injunction for Protection Against Sexual Violence

A final Sexual Violence Injunction may order:

- Protection against contact or violent contact.
- The respondent may be ordered to surrender guns and ammunition.

The injunction process

Filing for an Injunction for Protection.

To receive an injunction, you must file with the court system. You can get the necessary forms from www.flcourts.org or you may also go to your Clerk of Court's office and request the forms. At the clerk's office, explain that you want to apply for an Injunction for Protection. The clerk will provide you with the necessary forms including the petition for the court. The clerk may also ask you questions about your responses on the forms and you will be asked to swear that the facts in the petition are true.

Your local domestic violence shelter may also be able to assist you with the forms to file an injunction.

If you need shelter or a safe place to stay, to find a shelter in your area visit: https://www.shelterlist.com

What to Include in the Injunction Forms?

When you fill out the petition, you are telling the judge why you need protection, so include lots of details. Be as thorough and descriptive as possible. Write the exact ways that you were hurt, and the exact words used to threaten you. If you were forced to stay somewhere, explain how, where, and for how long. Include dates of threats, bruises, weapons, drugs, alcohol, and other details. If the abuser was arrested for abuse or is likely to be released from jail, include this information.

If you are pregnant and abused, include this information as well.

While the court will primarily focus on what has happened most recently, they may also consider things that happened in the past. If you have a history of violence with the person you want to be protected from, it may be very helpful to give the Court a greater context by listing prior acts of violence, threats, or harassment. Each occurrence you give should include an approximate date, what the other party did, and what injuries you suffered.

It is important to understand if you do not list something in your petition, you will NOT be able to discuss it with the judge later.

If you are in a place that the other party is not aware of and you fear for your safety, you can give the court your address in a separate confidential filing that the other party is not supposed to see.

You must ask for what you want the judge to do in writing in your petition. Depending on the type of injunction, this may include:

- **No Contact or Restricted Contact**: This orders the abuser to stay away from your home, work and school, or restricts the abuser to having contact with you for purposes only related to minor children you have together.
- **Request for Counseling or Drug/Alcohol Evaluation**: This might lead the abuser to confront issues related to abusive behavior.
- **Exclusive possession and use of the home**: In a Domestic Violence Injunction, this requires the abuser to leave home and allows you to stay in the home.

- **Time-Sharing/Support**: In a Domestic Violence Injunction, this gives you temporary time-sharing of the children and orders the abuser to pay some child support to you.
- **Alimony**: In a Domestic Violence Injunction, this orders the responding party to pay you alimony during the term of the injunction.
- **Pets:** you may ask the court to award a family pet to you.

Alimony through an Injunction Case.

To receive alimony or child support through a domestic violence injunction, you will need to file a Family Law Financial Affidavit, **form 12.902(b)** or **12.902(c)**. You can find these forms at www.flcourts.org under the **Family Law Forms** section of the site. You should also bring your pay stub and one of the abuser's pay stubs if you have it.

Before deciding whether to request alimony, consider that to get alimony you must prove that you have an actual need for alimony and the other party has the ability to pay it. You must carefully weigh this decision ahead of time because the other party or the other party's attorney could argue that you have filed an injunction just to get alimony. Such an argument could undercut your request for the injunction, so only ask for alimony if you need it.

After you file the Injunction case.

After you have completed and filed these forms, the clerk will have a judge review your forms. You will not see the judge. The judge may sign a Temporary Injunction for Protection, which is good for up to 15 days. The judge will schedule a hearing within the next 15 days, which you will attend to present evidence for the court to decide to grant or deny a Permanent Order of Injunction. The clerk will give you a copy of the Temporary Injunction for Protection and will tell you the date of the hearing. The clerk will also send a copy of the Temporary Injunction for Protection to the Sheriff's office, and the Sheriff will try to serve the abuser with the papers within 24 hours.

At the Final Hearing for the Injunction for Protection.

Since the Temporary Injunction for Protection only lasts until the hearing, you must go to the hearing and tell the court your story about the abuse. If you have

witnesses, pictures, or other evidence bring it with you to the hearing. At the hearing, the judge will decide whether to enter a final injunction and for how long.

At the hearing be sure to:

- Dress professional and conservatively.
- Plan to arrive early — parking can be hard to find, and you do not want to feel rushed.
- Do not interrupt, and remember to always call the judge “your honor.”
- Let the judge know why you need protection. Be as detailed as possible. It may help to write notes of dates and times you were hurt or threatened, so you do not forget to mention them. Bring the list to court to help you explain your case to the judge.
- If you do not have an attorney, ask the judge to grant your requests for all relief you have asked for in your petition (such as Custody, Child Support, Counseling, etc.).
- Bring everyone that can provide firsthand information or experience to help support your case before the judge.
- Bring anything you want the judge to look at (such as phone bills or photographs of injuries).

The Final Hearing is your only hearing, so you must be prepared. If you need additional time to subpoena witnesses, gather evidence, or to retain an attorney, you may ask the court to “continue” the case to a future date.

Violation of the Court Order

If your abuser violates the court order, you can:

- **Call 911 if you are in danger.** Show the police the final order.
- Follow your safety plan.
    - If you don’t have a safety plan, contact a victim’s advocate at the Florida Coalition Against Domestic Violence or your local domestic violence shelter.
- Save evidence of violations by keeping voice messages, text messages, and anything else that can show there was a violation.
- Contact law enforcement or the State Attorney’s Office and ask them to prosecute the abuser. It is a crime to violate an injunction.

- Go to the clerk's office where you asked for the injunction and file a Petition by Affidavit for Order to Show Cause for a Violation of Final Judgment of Injunction for Protection Against Domestic Violence, Repeat Violence, Dating Violence, Sexual Violence, or Stalking. You can find a form for this affidavit (sworn statement) on www.flcourts.org or by going to the clerk's office.
    - The court will set a hearing, and the abuser will have a chance to tell their side of the story.
    - If the judge finds that the abuser disobeyed the court order, the judge can put the abuser in jail by finding the person in contempt. The judge may also issue other sanctions such as fines or changes in time-sharing with the children.

Ways to Protect Yourself.

- Plan an emergency escape route.
- Keep money saved to use for your escape.
- See if a neighbor will give you emergency shelter.
- Make extra keys to the house and car. Leave them in a safe and secure place outside your home.
- Keep extra clothes for yourself and your children with a friend, relative, or neighbor.
- Copy important papers (birth certificate, driver's license, vehicle registration, court orders, etc.) and keep these papers with someone you trust.
- **Always keep your copy of the Order or Final Judgement with you.**
- Call the police as soon as possible to report abuse. When the police arrive, explain the situation. Once you have described the abuse, the police officer will give you a package of helpful information, which includes where you and your children can go for shelter, food, clothing, etc.
- The police can arrest the abuser if the officer finds evidence of bodily harm and believes your abuser has committed battery **or** if the officer believes you will be in danger without an immediate arrest — this is the law. The police don't need to see the abuse to arrest the abuser. The police can arrest your abuser even if there is not an Injunction in place. If the officer refuses to arrest your abuser, get the officer's name and badge number, and report it to the Police Department.
- To help prevent the abuse from happening again, protect yourself by cooperating with the State Attorney's Office after the arrest of your abuser.

Resources

Most counties have local domestic violence shelters. Domestic violence shelters have staff members, called advocates, that will support you through the court process. Many domestic violence shelters also offer counseling, housing, and other services.

Helpful numbers:

- National Domestic Violence Hotline 1-800-799-7233
- Florida Domestic Violence Hotline 1-800-500-1119
- Visit the website: https://www.womenslaw.org/

What to consider before taking action?

Understand the consequences of filing for an Injunction.

If the court enters an injunction against the responding party, they could lose their job. If the responding party loses their job, they may not be able to pay child support or alimony. If you have a temporary time-sharing plan with this person, or a pending case requesting time-sharing, the relocation laws will apply.

When you file for the injunction, you may end up legally establishing the father of your minor child through the injunction case, which may entitle them to more rights than they had in the past.

Additional Resources

- Call the National Domestic Violence Hotline
- Call the Florida Domestic Violence Hotline
- Visit Womanslaw.org