

CHAPTER 3

Protection Orders in Ohio

APRIL 2014





THE SUPREME COURT of OHIO

PROTECTION ORDERS OVERVIEW CARD

TYPE OF ORDER	FOR WHOM?	JURISDICTION, VENUE & STANDARD OF PROOF	LENGTH OF ORDER, OBJECTIONS & VIOLATION
<p style="text-align: center;">DV Civil Protection Order (DV CPO)</p> <p style="text-align: center;">DV Juvenile Civil Protection Order (DV JCPO)</p> <p style="text-align: center;">R.C. 3113.31</p>	<ul style="list-style-type: none"> • Domestic violence, menacing by stalking, aggravated trespass, child abuse or sexually oriented offense committed by an adult or juvenile who is a household member • Criminal charges not required • Custody and support issues may be addressed • Person may seek relief on the person's own behalf • Any parent or adult household member may seek relief on behalf of any other family or household member 	<ul style="list-style-type: none"> • Common Pleas Court Juvenile division if respondent is under 18 years old • Common Pleas Court Domestic Relations division if respondent is 18 years or older • <i>Ex Parte</i> order may be solely signed by a magistrate per Civ.R. 65.1 • Hearing within 7 or 10 court days if <i>Ex Parte</i> order issued, depending if respondent is ordered to vacate or is evicted from residence • Normal civil action if no <i>Ex Parte</i> order is issued or requested • Venue: Where petitioner currently or temporarily resides • Standard of proof: Preponderance of the evidence 	<ul style="list-style-type: none"> • In effect for a specified time up to 5 years and may be renewed • In effect for a specified time not to exceed the respondent's 19th birthday, if respondent was a minor at the time of issuance • Objections may be filed after issuance of final appealable order per Civ.R. 65.1 • Criminal violation under R.C. 2919.27 • Contempt of court under R.C. 3113.31 • Adjudicated a delinquent child under R.C. 2919.27
<p style="text-align: center;">Juvenile Civil Protection Order (JCPO)</p> <p style="text-align: center;">R.C. 2151.34</p>	<ul style="list-style-type: none"> • Felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, menacing, aggravated trespass, and sexually oriented offense committed by a juvenile • Criminal charges not required • Any person on behalf of that person • Any parent or adult family or household member may seek relief on behalf of any other family or household member • Any person who the court deems as an appropriate person may seek relief on behalf of a child 	<ul style="list-style-type: none"> • Common Pleas Court Juvenile Division if respondent is under 18 years old • <i>Ex Parte</i> order may be solely signed by a magistrate per Civ.R. 65.1 • Hearing within 10 court days if <i>Ex Parte</i> order issued • Normal civil action if no <i>Ex Parte</i> order is issued or requested • Venue: Where petitioner resides • Standard of proof: Preponderance of the evidence; clear and convincing for electronic monitoring requests 	<ul style="list-style-type: none"> • In effect for a specified time not to exceed the respondent's 19th birthday • Objections may be filed after issuance of final appealable order per Civ.R. 65.1 • Criminal violation under R.C. 2919.27 • Contempt of court under R.C. 2151.34 • Adjudicated a delinquent child under R.C. 2919.27

PROTECTION ORDERS OVERVIEW CARD

TYPE OF ORDER	FOR WHOM?	JURISDICTION, VENUE & STANDARD OF PROOF	LENGTH OF ORDER & VIOLATION
<p align="center">Civil Stalking Protection Order</p> <p align="center">or</p> <p align="center">Civil Sexually Oriented Offense Protection Order (CSPO or CSOPO)</p> <p align="center">R.C. 2903.214</p>	<ul style="list-style-type: none"> • Menacing by stalking or victims of a sexually oriented offense • Criminal charges not required • Person may seek relief on the person's own behalf • Any parent or adult household member may seek relief on behalf of any other family or household member 	<ul style="list-style-type: none"> • Common Pleas Court if respondent is 18 years old or older • <i>Ex Parte</i> order may be solely signed by a magistrate per Civ.R. 65.1 • Hearing within 10 court days if <i>Ex Parte</i> order is issued; normal civil action if no <i>Ex Parte</i> order is issued • Normal civil action if no <i>Ex Parte</i> order is issued or requested • Venue: Where petitioner currently or temporarily resides 	<ul style="list-style-type: none"> • In effect for a specified time up to 5 years and may be renewed • Objections may be filed after issuance of final appealable order per Civ.R. 65.1 • Criminal violation under R.C. 2919.27 • Contempt of court under R.C. 2903.214
<p align="center">DV Temporary Protection Order (DV TPO)</p> <p align="center">R.C. 2919.26</p>	<ul style="list-style-type: none"> • Criminal charges of domestic violence, stalking, criminal damaging or endangering, criminal mischief, burglary, aggravated trespass, sexually oriented offense or any offense of violence (R.C. 2901.01) against a family or household member • Either misdemeanor or felony charge 	<ul style="list-style-type: none"> • Municipal or County Court (generally) or Common Pleas Court General division • Venue: Court that has jurisdiction over criminal case 	<ul style="list-style-type: none"> • In effect for the duration of criminal case or until a DV CPO (R.C. 3113.31) is issued arising out of the same activities • Criminal violation under R.C. 2919.27
<p align="center">Criminal Protection Order (CrPO)</p> <p align="center">R.C. 2903.213</p>	<ul style="list-style-type: none"> • Criminal charges of felonious assault, aggravated assault, assault, aggravated menacing, menacing by stalking, aggravated trespass, menacing or sexually oriented offense against someone who is NOT a family or household member • Excludes DV and offenses of violence against family or household member • Either misdemeanor or felony charge 	<ul style="list-style-type: none"> • Municipal or County Court (generally) or Common Pleas Court General division • Venue: Court that has jurisdiction over criminal case 	<ul style="list-style-type: none"> • In effect for the duration of criminal case or until CSPO or CSOPO (R.C. 2903.214) is issued arising out of the same activities • Criminal violation under R.C. 2919.27

Protection Order Forms: For technical assistance on protection order forms and related matters, contact the Domestic Violence Program at 614.387.9408. Forms may be found at: supremecourt.ohio.gov/JCS/domesticViolence/default.asp



THE SUPREME COURT *of* OHIO

DOMESTIC VIOLENCE CIVIL PROTECTION ORDER

Respondent 18 Years or Older
COURT OF COMMON PLEAS, DOMESTIC RELATIONS DIVISION

ISSUANCE CHECKLIST

Jurisdiction and Venue [R.C. 3113.31(A)(2) and Civ.R. 3(B)]

- Domestic Relations Division when parties are family or household members
- Proper venue lies in counties with connection to the parties or allegation:
 - Where Petitioner resides or temporarily resides
 - Where Respondent resides
 - Where Incident(s) occurred

Who May Seek Relief? [R.C. 3113.31(C)]

- Person may seek relief for the person
- Any parent or adult household member may seek relief on behalf of any other family or household member

Victim Advocate Participation [R.C. 3113.31(M)]

- Petitioner may be accompanied by a victim advocate

Family or Household Member Relationship [R.C. 3113.31(A)(3)-(4)]

- Establish the “family or household member” relationship to provide relief through Domestic Violence Civil Protection Order (DV CPO)
- A person who is residing or has resided at some point in the past with the Respondent
 - Spouse
 - Former spouse
 - Foster parent
 - Child
 - Another person related by consanguinity or affinity to the Respondent

- Person living as a spouse with the Respondent
 - Cohabiting or cohabited within 5 years prior to the incident
 - *See, e.g., State v. McClothan, 2014-Ohio-85.*
 - Common law marriage until October 1, 1999
 - Including same sex relationship
 - *See, e.g., State v. Carswell, 114 Ohio St.3d 2010 (2007), 2007-Ohio-3723.*
 - Sharing of familial or financial responsibilities and consortium
 - *See, e.g., State v. William, 79 Ohio St.3d 459 (1997).*

- A person who never resided with the Respondent
 - Petitioner is the natural parent of any child of whom the Respondent is the other natural parent or is the putative other natural parent
 - “Putative other natural parent” does not require a parentage determination to meet the “family or household” member definition

Covered Offenses [R.C. 3113.31(A)(1)]

- Attempting to cause or recklessly causing bodily injury
- Placing another in fear of imminent serious physical harm
- Menacing by stalking [R.C. 2903.211]
 - Pattern of conduct of two or more actions or incidents closely related in time
 - Knowingly caused or would cause the Petitioner physical harm or mental distress
- Aggravated trespass [R.C. 2911.211]
- Abused child [R.C. 2151.031]
- Sexually oriented offense [R.C. 2950.01]

Special Statutory Proceeding [Civ.R. 65.1(A)]

- Declare protection order proceedings special statutory proceedings
- Supersede and make inapplicable provisions of the rules of civil procedures that are inconsistent with Civ.R. 65.1

Ex Parte Order [R.C. 3113.31(D)]

- Hearing on the same day petition was filed
- Magistrate may conduct hearing and grant or deny the order without judicial approval [Civ. R. 65.1(F)(2)]
 - Magistrate denial or granting of the order not subject to Civ.R. 53(D)(2) or (3)
 - Effective upon magistrate’s signature and filing with clerk of court
 - Order signed by magistrate has same effect as if entered by the court
 - Order signed and approved by the court is not subject to Civ.R. 53(D)(4)

- Order valid until a date certain
- Ex Parte* Order is not a final appealable order
- Order does not terminate due to lack of service or continuance granted
 - Modify *Ex Parte* Order termination date, if continuance granted
 - Indicate “Modification of Previous Form” on Form 10-A, and file with law enforcement for entry into National Crime Information Center (NCIC) protection order database file, if continuance granted

Ground for Continuance [R.C. 3113.31(D)(2)(a)]

- Failure of service
- Allow either party to obtain counsel
- Parties consent to continuance
- Other good cause

Discovery [Civ.R. 65.1(D)]

- Complete prior to the full hearing
 - May grant continuance, if it promotes fair and just administration of justice
- Conduct only with leave of court
- Discovery Order
 - Time and place
 - Identity of those to be present and may include victim advocate
 - Other terms and condition to ensure Petitioner’s safety, including address confidentiality

Burden of Proof

- Preponderance of the evidence
 - *See, e.g., Felton v. Felton*, 79 Ohio St.3d 34 (1997)
- Modification of DV CPO [R.C. 3113.31(E)(8)(b)]
 - Preponderance of the evidence

Full Hearing Order [R.C. 3113.31(D)]

- Hearing must be held
 - 7 court days if *Ex Parte* Order includes order to vacate or evict
 - 10 court days if *Ex Parte* Order does not include order to vacate or evict
 - Normal civil action if *Ex Parte* Order not granted
- Magistrate may conduct hearing and grant or deny the protection order [Civ. R. 65.1(F)(3)(a)]
 - Magistrate denial or granting of the order is not subject to Civ.R. 53(D)(2) or (3)
 - Not effective unless adopted by court

- Upon review, court may adopt, modify, or reject the magistrate’s denial or granting of the order [Civ.R. 65.1(F)(3)(c)]
 - Determine there is no error of law or defect evident on the face of the order
 - Adopted order is not subject to Civ.R. 53(D)(4)
 - Effective when signed by court and filed with clerk of court
- Full hearing DV CPO and consent agreement is a final, appealable order [R.C. 3113.31(G)]
- Order valid until a date certain
 - Modify Form 10-A as needed
 - Indicate “Modification of Previous Form” on Form 10-A and file with law enforcement for entry into NCIC protection order database file
- Remedies in the DV CPO are in addition to any other available criminal or civil remedies

Relief Available [R.C. 3113.31(E)(1)]

- Issue order, with or without bond
- Designed to ensure the safety and protection of protected parties
 - Refrain Respondent from abusing or from committing a sexually oriented offense
 - Evict Respondent and grant exclusive use of the residence to protected parties
 - Residence is owned or solely leased by Petitioner
 - Order Respondent to vacate the premise and grant exclusive use of the residence to protected parties
 - Residence is jointly owned or leased
 - Respondent solely owns or leased the residence and has a duty to support the Petitioner
 - Temporarily allocate parental rights and responsibilities
 - Require Respondent to maintain support
 - Refrain Respondent from entering residence, school, business, place of employment
 - Direct Respondent not to cause another person to violate the order
 - Require Respondent, Petitioner, and/or Victim to seek counseling
 - Grant any other relief that is equitable and fair

Other Terms of the Order

- Minor child as a protected party [R.C. 3113.31(O)]
 - Require Respondent to refrain from abusing a child, even if the no-contact provision is no longer a term of the Order
 - *See, e.g., State v. Price*, 118 Ohio St.3d 144 (2008)
- Title to real property is not affected in any manner [R.C. 3113.31(E)(5)]
- Neither Petitioner’s nor Petitioner’s family or household members’ actions waive or nullify any of the terms of the protection order [R.C. 3113.31(E)(7)]
 - *See, e.g., State v. Lucas*, 100 Ohio St.3d 1 (2003)

Mandatory Firearm Warning [R.C. 3113.31(F)(2)]

- Provide firearms disability notice, orally or by form, upon the issuance of a full hearing DV CPO or consent agreement
- Requisite statutory firearms warning language in Form 10.01-G
- Firearms disability 18 U.S.C. 922(g) (8)

No Mutual Orders [R.C. 3113.31(E)(4)]

- If the Respondent files a petition against the Petitioner, the initial Petitioner is entitled to due process as outlined in the statute
- No sua sponte order
- Petitioner's *Ex Parte* hearing cannot be delayed

Duration & Renewal of Order [R.C. 3113.31(E)(3)]

- Valid until a date certain but not later than 5 years from the date of the order's issuance
- May be renewed in the same manner as original order was issued or approved

Objections [Civ.R. 65.1(F)(3)(d)]

- Timely filed objections to the adoption, modification or rejection of the magistrate's denial or granting of the order does not stay the execution of the order
 - Timely written objection must be filed within 14 days of the filing of the order
 - Other party may also file objections not later than 10 days after first objections are filed
 - Party filing objections has burden to show an error of law or other defect is evident on the face of the order, or the credible evidence of record is insufficient to support the granting or denial of the protection order, or that the magistrate abused the magistrate's discretion in including or failing to include specific terms in the protection order
- Timely filed objections stay the running of time for appeal [Civ.R. 65.1(G)]

National Law Enforcement Database [Sup.R. 10]

- Courts must complete and file Form 10-A with local law enforcement agency for entry of the protection order into the NCIC protection order database file

Issuance, Costs, Indexing & Registration

- The court shall issue a copy of the DV CPO to the Petitioner, Respondent and relevant law enforcement agency [R.C. 3113.31(F) (1), 3113.31(E) (8) and Civ.R. 65.1(C)]
 - Provide a copy of the order to law enforcement agencies in the court's geographic jurisdiction and where the Petitioner or Respondent live or work, if different from the court's geographic jurisdiction

- Personal service of the *Ex Parte* Order [Civ.R. 65.1(C)(2)]
 - Subsequent service of full hearing order, consent agreement, or other documents follow Civ.R. 5(B) [Civ.R. 65.1(C)(3)]
- No costs or fees shall be assessed against Petitioners in connection with the filing of a petition or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a DV CPO, or for obtaining a certified copy of the order [R.C. 3113.31(J) and 42 U.S.C. 3796 gg-5]
- May assess costs if Respondent moves to modify or terminate an existing DV CPO [R.C. 3113.31(E)(8)(e)]
- Petitioner may register a DV CPO obtained in another jurisdiction by providing a certified copy of the order to the clerk of court of the common pleas court in the county in which the order is to be registered [R.C. 3113.31(N)]
- Clerk of court must maintain a registry of certified copies of foreign orders [R.C. 2919.272]

Enforcement & Penalties

- Protection order enforcement [R.C. 3113.31(F)(3)]
- Full faith and credit requires law enforcement to enforce a qualifying DV CPO issued or approved by any state court regardless of whether the Petitioner registered the order
 - Qualifying protection order is issued by a court that has jurisdiction over the subject matter and parties, and Respondent had reasonable notice and opportunity to be heard [18 U.S.C. 2265(b)]
 - DV CPO supersedes a DV TPO issued as a pretrial condition of release, if the DV CPO arises out of the same activity as the DV TPO [R.C. 2919.26(B)]
 - DV CPO may not supersede a no-contact order if the no-contact order is issued as part of probation
 - The court should engage in reasonable efforts to ascertain the existence and terms of other protection or parenting orders involving the same parties [Sup.R. 10.06]
- Protection order violation
- Criminal prosecution [R.C. 2919.27 and 3113.31(L)(1)(a)]
 - If convicted, a person cannot subsequently be punished for contempt of court arising out of the same activity
 - Contempt of court [R.C. 3113.31(L)(2)]
 - A person punished for contempt of court is entitled to credit for the punishment imposed upon conviction or adjudication as a delinquent child for violating a DV CPO
 - Affirmative defense [R.C. 3113.31(E)(7)(b)]
 - At its discretion, the court may determine that a Respondent, who entered a prohibited location, did not commit the violation or was not in contempt of court
 - Failure to pay child support [R.C. 3113.31(K)(2)]
 - Respondent is imposed penalty or remedy for contempt for failure to pay
 - Respondent must be assessed all court costs and pay reasonable attorney fees of adverse party

Modification & Early Termination Checklist [R.C. 3113.31(E)(8)]

- DV CPO issuing court shall hear the motion
- Protected parties cannot waive or nullify terms of the order. [R.C. 3113.31(E)(7)]
- Either Petitioner or Respondent may bring motion for modification or termination
 - Normal civil action subject to Civ.R. 65.1
 - No expedited hearing requirement
 - Petitioner’s address must remain confidential if requested in original DV CPO petition
 - Burden of proof is preponderance of the evidence
 - May file Form 10.01-K to modify or terminate early DV CPO
- 12 statutory factors
 - Consents of Petitioner to modify or terminate the order
 - Petitioner’s fear of the Respondent
 - Current nature of the relationship
 - Current circumstances of the parties
 - Relative proximity of the parties’ workplaces and residences
 - Minor children in common
 - Respondent’s compliance with the terms and conditions of the order
 - Respondent’s continued involvement with illegal drugs or alcohol
 - Respondent has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for an offense of violence since the issuance of the order
 - Other court order against the Respondent since the issuance of the protection order
 - Respondent’s participated and completed a domestic violence treatment, intervention program, or other counseling addressing
 - Time elapsed since the order was issued
 - Respondent’s age and health
 - Last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred or other relevant information concerning the safety and protection of the Petitioner or other protected parties
- If motion granted, complete Forms 10.01-L, 10.01-M and 10-A
 - Indicate on Form 10-A “Modification of Previous Form” and file with law enforcement for entry into NCIC protection order database file
- May assess costs against the Respondent if the Respondent moved to modify or terminate the order [R.C. 3113.31(E)(8)(e)]

Sealing the Record

- Trial courts have an inherent authority to seal a civil protection order record when “unusual and exceptional circumstance” exist
- Balance interest of the applicant against the legitimate interest of the government to maintain the record public
 - *See, e.g., Schussheim v Schussheim, 137 Ohio St.3d 133, 2013-Ohio-4529 (2013)*

Domestic Violence Civil Protection Order Forms [Sup.R. 10.01]

- Clerk of courts must make forms available
- Courts must use the forms promulgated by the Supreme Court or forms that are substantially similar
- Forms are available online at the Supreme Court's website
 - Instructional and informational forms translated into selected foreign languages are available online
 - For technical assistance on the protection order forms and related matters contact the Domestic Violence Program at 614.387.9408

Limits to Online Access of Protection Orders [18 U.S.C. 2265(d)(3)]

- Prohibits making publicly available on the Internet information regarding the registration, filing of a petition, or issuance of a protection order if the identity or location of the Petitioner or protected party is likely to be revealed
- Exception: courts and law enforcement may share information between and among each other



THE SUPREME COURT *of* OHIO

CIVIL STALKING PROTECTION ORDER OR CIVIL SEXUALLY ORIENTED OFFENSE PROTECTION ORDER

Respondent 18 Years or Older
COURT OF COMMON PLEAS, GENERAL DIVISION

ISSUANCE CHECKLIST

Jurisdiction and Venue [R.C. 2903.214(A)(1)]

- Court of Common Pleas no specific relationship necessary
- Proper venue lies in county in which the person to be protected resides

Who May Seek Relief? [R.C. 2903.214(C)]

- Person may seek relief for the person
- Any parent or adult household member may seek relief on behalf of any other family or household member

Victim Advocate Participation [R.C. 2903.214(L)]

- Petitioner may be accompanied by a victim advocate

Relationship to Respondent

- No specific relationship needed for relief

Covered Offenses [R.C. 2903.214(C)]

- Menacing by stalking [R.C. 2903.211]
 - Pattern of conduct of two or more actions or incidents closely related in time [R.C. 2903.211(D)(1)]
 - Knowingly caused or would cause the Petitioner physical harm or mental distress
- Sexually oriented offense [R.C. 2950.01]

Special Statutory Proceedings [Civ.R. 65(A)]

- Declare protection order proceedings special statutory proceedings
- Supersede and make inapplicable provisions of the rules of civil procedures that are inconsistent with Civ.R. 65.1

Ex Parte Order [R.C. 2903.214(D)]

- Hearing not later than the next court day
- Magistrate may conduct hearing and grant or deny the Civil Stalking Protection Order (CSPO) or Civil Sexually Oriented Offense Protection Order (CSOOPO) without judicial approval [Civ.R. 65.1(F)(2)]
 - Magistrate denial or granting of the order not subject to Civ.R. 53(D)(2) or (3)
 - Effective upon magistrate's signature and filing with clerk of court
 - Order signed by magistrate has same effect as if entered by the court
 - Order signed and approved by the court is not subject to Civ.R. 53(D)(4)
- Order valid until a date certain
- Ex Parte* Order is not a final, appealable order
- Order does not terminate due to lack of service or continuance granted
 - Modify *Ex Parte* Order termination date, if continuance granted
 - Indicate "Modification of Previous Form" on Form 10-A and file with law enforcement for entry into National Crime Information Center (NCIC) protection order database file, if continuance granted

Ground for Continuance [R.C. 2903.214(D)(2)(a)]

- Failure of service
- Allow either party to obtain counsel
- Parties consent to continuance
- Other good cause

Discovery [Civ.R. 65.1(D)]

- Complete prior to the full hearing
 - May grant continuance, if it promotes fair and just administration of justice
- Conduct only with leave of court
- Discovery Order
 - Time and place
 - Identity of those to be present and may including victim advocate
 - Other terms and condition to ensure Petitioner's safety, including address confidentiality

Burden of Proof

- Preponderance of the evidence, generally
 - *See, e.g., Felton v. Felton, 79 Ohio St.3d 34(1997)*
- Clear and convincing evidence if electronic monitoring requested [R.C. 2903.214(E)]
 - Petitioner’s health, welfare, or safety at risk
 - Respondent presents a continuing danger

Full Hearing Order [R.C. 2903.214(D)]

- Hearing must be held
 - 10 court days if *Ex Parte* Order granted
 - Normal civil action if *Ex Parte* Order not granted
- Magistrate may conduct a hearing and grant or deny the protection order [Civ.R. 65.1(F)(3)(a)]
 - Magistrate denial or granting of the order is not subject to Civ.R. 53(D)(2) or (3)
 - Not effective unless adopted by court
- Upon review, court may adopt, modify, or reject the magistrate’s denial or granting of the order [Civ.R. 65.1(F)(3)(c)]
 - Determine there is no error of law or defect evident on the face of the order
 - Adopted order is not subject to Civ.R. 53(D)(4)
 - Effective when signed by court and filed with clerk of court
- Full hearing CSPO and CSOPO are final, appealable orders [R.C. 2903.214(G)]
- Order valid until a date certain
 - Modify Form 10-A as needed
 - Indicate “Modification of Previous Form” on Form 10-A and file with law enforcement for entry into NCIC protection order database file
- Remedies in the CSPO and CSOPO are in addition to any other criminal or civil remedies

Relief Available [R.C. 2903.214(E)]

- Issue order with or without bond
- Designed to ensure the safety and protection of the Petitioner
 - Refrain from entering residence, school, business, place of employment
 - Electronic monitoring
 - Law enforcement installs the device and monitors Respondent
 - Respondent assessed cost for installation and monitoring
 - If indigent, the cost for installing and monitoring may be paid out of the Attorney General’s Office Crime Victim Compensation Fund, if funds are available [R.C. 2903.214(N)]
 - Grant other relief that the court considers equitable and fair

Other Terms of the Order

- Neither Petitioner’s nor Petitioner’s family or household members may waive or nullify any of the terms of the protection order [R.C. 2903.214(E)(5)(a)]
 - *See, e.g., State v. Lucas, 100 Ohio St.3d 1(2005)*
- Title to real property is not affected in any manner [R.C. 2903.214(E)(4)]

Mandatory Firearm Warning [R.C. 2903.214(F)(2)]

- Provide firearms disability notice, orally or by form, upon the issuance of a CSPO or CSOPO
- Requisite statutory firearms warning language in Form 10.03-H
- Firearms disability [18 U.S.C. 922(g)(8)]

No Mutual Orders [R.C. 2903.214(E)(3)]

- If the Respondent files a petition, the initial Petitioner is entitled to due process as outlined in the statute
- No sua sponte order
- Petitioner’s *Ex Parte* hearing cannot be delayed

Duration & Renewal of Order [R.C. 2903.214(E)(2)]

- Valid until a date certain but not later than 5 years from the date of its issuance
- May be renewed in same manner as original order was issued

Objections [Civ.R. 65.1(F)(3)(d)]

- Timely filed objections to the adoption, modification or rejection of the magistrate’s denial or granting of the order does not stay the execution of the order [Civ.R. 65.1(F)(3)(d)]
 - Timely filed objection within 14 days of the filing of the order with the clerk of court
 - Other party may also file objections not later than 10 days after first objections are filed
 - Party filing objections has burden to show an error of law or other defect is evident on the face of the order, or the credible evidence of record is insufficient to support the granting or denial of the protection order, or that the magistrate abused the magistrate’s discretion in including or failing to include specific terms in the protection order
- Timely filed objections stay the running of time for appeal [Civ.R. 65.1(G)]

National Law Enforcement Database [Sup.R. 10]

- Courts must complete and file Form 10-A with local law enforcement agency for entry of the protection order into the NCIC database file

Issuance, Costs, Indexing & Registration

- ❑ The court shall issue a copy of the order to the Petitioner, Respondent and relevant law enforcement agency [R.C. 2903.214(F)(1) and Civ.R. 65.1(C)]
 - Provide a copy of the order to law enforcement agencies in the court's geographic jurisdiction and where the Petitioner or Respondent live or work, if different from the court's geographic jurisdiction.
 - Personal service of the *Ex Parte* Order [Civ.R. 65.1(C)(2)]
 - Subsequent service of full hearing order or other documents follow Civ.R. 5(B) [Civ.R. 65.1(C)(3)]
- ❑ No costs or fees shall be assessed against Petitioners in connection with the filing of the petition or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal or service of a CSPO or CSOPO, or for obtaining a certified copy of the order [R.C. 2903.214(J) and 42 U.S.C. 3796 gg-5]
- ❑ Petitioner may register a CSPO or CSOPO obtained in another jurisdiction by providing a certified copy of the order to the clerk of court of the common pleas court in the county in which the order is to be registered [R.C. 2903.214(M)]
- ❑ Clerk of court must maintain a registry of certified copies of foreign orders [R.C. 2919.272]

Enforcement & Penalties

- ❑ Protection order enforcement
 - Full faith and credit requires law enforcement to enforce a qualifying CSPO or CSOPO issued by any state court regardless of whether the Petitioner registered the order [R.C. 2903.214(F)(4)]
 - Qualifying protection order is issued by a court that has jurisdiction over the subject matter and parties, and Respondent has reasonable notice and opportunity to be heard [18 U.S.C. 2265(b)]
 - A CSPO or CSOPO supersedes a CrPO issued as a pretrial condition of release, if the CSPO or CSOPO arises out of the same activity as the CrPO [R.C. 2903.213(E)]
 - A CSPO or CSOPO may not supersede a no-contact order, if the no-contact order is issued as part of probation
 - The court should engage in reasonable efforts to ascertain the existence and terms of other protection orders involving the same parties [Sup.R. 10.06]
- ❑ Protection order violation
 - Criminal prosecution [R.C. 2903.214(K)(1)(a) and 2919.27]
 - If convicted, person cannot subsequently be punished for contempt of court arising out of the same activity
 - Contempt of court [R.C. 2903.214(K)(2)]
 - A person punished for contempt of court is entitled to credit for the punishment imposed upon conviction for violating a CSPO or CSOPO
 - Affirmative defense [R.C. 2903.214(E)(5)(b)]
 - At its discretion, the court may determine that a Respondent, who entered a prohibited location, did not commit the violation or was not in contempt of court

Sealing the Record

- Trial courts have an inherent authority to seal a civil protection order record when “unusual and exceptional circumstance” exist
- Balance interest of the applicant against the legitimate interest of the government to maintain the record public
 - *See, e.g., Schusseim v Schusseim, 137 Ohio St.3d 133, 2013-Ohio-4529 (2013)*

Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order Forms [Sup.R. 10.03]

- Clerk of courts must make forms available
- Courts must use the forms promulgated by the Supreme Court or forms that are substantially similar
- Forms are available online at the Supreme Court’s website
 - Instructional and informational forms translated into selected foreign languages are available online
 - For technical assistance on the protection order forms and related matters contact the Domestic Violence Program at 614.387.9408

Limits to Online Access of Protection Orders [18 U.S.C. 2265(d)(3)]

- Prohibits making publicly available on the Internet information regarding the registration, filing of a petition, or issuance of a protection order if the identity or location of the Petitioner or protected party is likely to be revealed
- Exception: courts and law enforcement may share information between and among each other



THE SUPREME COURT *of* OHIO

CIVIL PROTECTION ORDER AGAINST MINORS Respondent under 18 Years of Age COURT OF COMMON PLEAS, JUVENILE DIVISION

ISSUANCE CHECKLIST

Jurisdiction, Venue and Procedure [R.C. 2151.34(A)(1), 2151.34(G) and 3113.31(A)(2)]

- Juvenile Division when Respondent is under 18 years of age
- Proper venue lies in county in which the person to be protected resides
- Rules of Civil Procedure apply
 - Subject to Civ.R. 65.1

Who May Seek Relief?

- Person may seek relief for the person [R.C. 2151.34(C)(1)(a) and 3113.31(C)]
- Any parent or adult household member may seek relief on behalf of any other family or household member [R.C. 2151.34(C)(1)(b) and 3113.31(C)]
- Any person deemed appropriate by the court may seek relief on behalf of a child [R.C. 2151.34(C)(1)(c)]

Victim Advocate Participation [R.C. 2151.34(L) and 3113.31(M)]

- Petitioner may be accompanied by a victim advocate

Notice to Parent, Guardian, or Legal Custodian

- At the discretion of the court, notice of petition to the Petitioner's parent or any other person deemed appropriate [R.C. 2151.34(C)(3)]
- Notice of full hearing must be provided to the Respondent's parent, guardian, or legal custodian [R.C. 2151.34(D)(2)]

Relationship to Respondent

- No specific relationship needed for relief under R.C. 2151.34
- Establish a “family or household member” relationship for relief under R.C. 3113.31
 - A person who is residing or has resided at some point in the past with the Respondent [R.C. 3113.31(A)(3)(a)]
 - Spouse
 - Former spouse
 - Foster parent
 - Child
 - Another person related by consanguinity or affinity to the Respondent
- Person living as a spouse with the Respondent [R.C. 3113.31(A)(4)]
- A person who never resided with the Respondent [R.C. 3113.31(A)(3)(b)]
 - Petitioner is the natural parent of any child of whom the Respondent is the other natural parent or is the putative other natural parent
 - “Putative other natural parent” does not require a parentage determination to meet the “family or household member” definition

Covered Offenses

- Domestic Violence Juvenile Civil Protection Order
 - Domestic violence [R.C. 3113.31]
 - Attempting to cause or recklessly causing bodily injury
 - Placing another in fear of imminent serious physical harm
 - Menacing by stalking [R.C. 2903.211]
 - Pattern of conduct of two or more actions or incidents closely related in time
 - Knowingly caused or would cause the Petitioner physical harm or mental distress
 - Aggravated trespass [R.C. 2911.211]
 - Abused child [R.C. 2151.031]
 - Sexually oriented offense [R.C. 2950.01]
- Juvenile Civil Protection Order [R.C. 2151.34(A)(2)]
 - Felonious assault [R.C. 2903.11]
 - Aggravated assault [R.C. 2903.12]
 - Assault [R.C. 2903.13]
 - Aggravated menacing [R.C. 2903.21]
 - Menacing by stalking [R.C. 2903.211]
 - Pattern of conduct of two or more actions or incidents closely related in time
 - Knowingly caused or would cause the Petitioner physical harm or mental distress
 - Menacing [R.C. 2903.22]
 - Aggravated trespass R.C. 2911.211]
 - Sexually oriented offense [R.C. 2950.01]

Special Statutory Proceeding [Civ.R. 65.1(A)]

- Declare protection order proceedings special statutory proceedings
- Supersede and make inapplicable provisions of the rules of civil procedures that are inconsistent with Civ.R. 65.1

Ex Parte Order [R.C. 2151.34(D)(1) and 3113.31(D)(1)]

- Ex Parte* Domestic Violence Juvenile Civil Protection Order (DV JCPO) hearing on the same day petition was filed
- Ex Parte* Juvenile Civil Protection Order (JCPO) hearing not later than the next court day
- Order valid until a date certain
- Ex Parte* Order is not a final, appealable order
- Order does not terminate due to lack of service or continuance granted
 - Modify *Ex Parte* order termination date if continuance granted
 - Indicate “Modification of Previous Form” on Form 10-A and file with law enforcement for entry into National Crime Information Center (NCIC) protection order database file, if continuance granted

Ground for Continuance [R.C. 2151.34(D)(2)(a) and 3113.31(D)(2)(a)]

- Failure of service
- Allow either party to obtain counsel
- Parties consent to continuance
- Other good cause

Discovery [Civ.R. 65.1(D)]

- Complete prior to the full hearing
 - May grant continuance, if it promotes fair and just administration of justice
- Conduct only with leave of court
 - Discovery Order
 - Time and place
 - Identity of those to be present and may include victim advocate
 - Other terms and condition to ensure Petitioner’s safety, including address confidentiality

Burden of Proof

- Preponderance of the evidence, generally
 - *See, e.g., Felton v. Felton*, 79 Ohio St.3d 34 (1997)
- Modification of DV JCPO [R.C. 3113.31(E)(8)(b)]
 - Preponderance of the evidence

- ❑ Clear and convincing evidence if electronic monitoring requested in JCPO [R.C. 2151.34(E)(1)(b)]
 - Petitioner’s health, welfare, or safety at risk
 - Respondent presents a continuing danger

Full Hearing Orders [R.C. 2151.34(D) and 3113.31(D)]

- ❑ Hearing must be held
 - 7 court days if *Ex Parte* Order includes order to evict or vacate
 - 10 court days if *Ex Parte* Order does not include order to evict or vacate
 - Normal civil action if *Ex Parte* Order not granted
- ❑ Magistrate may conduct a hearing and grant or deny the order [Civ.R. 65.1(F)(3)(a)]
 - Magistrate denial or granting of the order is not subject to Civ.R. 53(D)(2) or (3)
 - Not effective unless adopted by court
- ❑ Upon review, court may adopt, modify, or reject the magistrate’s denial or granting of the order [Civ.R. 65.1(F)(3)(c)]
 - Determine there is no error of law or defect evident on the face of the order
 - Adopted order is not subject to Civ.R. 53(D)(4)
 - Effective when signed by the court and filed with clerk of court
- ❑ Full hearing of DV JCPO and JCPO are final, appealable orders [R.C. 2151.34(G) and 3113.31(G)]
- ❑ Order valid until a date certain
 - Modify NCIC Form 10-A as needed
 - Indicate “Modification of Previous Form” on Form 10-A and file with law enforcement for entry into NCIC protection order database file
- ❑ Remedies in the DV JCPO and JCPO are in addition to any other criminal or civil remedies

Relief Available

- ❑ Issue Order with or without bond [R.C. 2151.34(E)(1)(a) and 3113.31(E)(1)]
 - DV JCPO designed to ensure the safety and protection of the Petitioner [R.C. 3113.31(E)(1)(a)-(h)]
 - Refrain Respondent from abusing or from committing a sexually oriented offense
 - Evict Respondent and grant exclusive use of the residence to protected parties
 - Order Respondent to vacate premisses and grant exclusive use of the residence to protected parties
 - Temporarily allocate parental rights and responsibilities
 - Require Respondent to maintain support
 - Refrain Respondent from entering residence, school, business, place of employment
 - Direct Respondent not to cause or encourage another person to violate the order

- Require Respondent, Petitioner, and/or Victim to seek counseling
 - Grant other relief that the court considers equitable and fair
- JCPO designed to ensure the safety and protection of the Petitioner [R.C. 2151.34(E)(1)(a)-(b)]
- Grant any relief that the court considers equitable and fair
 - Electronic monitoring [R.C. 2151.34(N)]
 - Law enforcement installs the device and monitors Respondent
 - Respondent assessed cost for installation and monitoring
 - If indigent, the cost for installing and monitoring may be paid out of the Attorney General’s Office Crime Victim Compensation Fund, if funds are available [R.C. 2903.214(N)]

Other Terms of the Order

- Minor child as a protected party [R.C. 3113.31(O)]
- Require Respondent to refrain from abusing a child even if the no-contact provision is no longer a term of the order
 - *See e.g., State v. Price*, 118 Ohio St. 3d 144 (2008)
- Title to real property is not affected in any manner [R.C. 2151.34(E)(4) and 3113.31(E)(5)]
- Neither Petitioner’s nor Petitioner’s family or household members may waive or nullify any of the terms of the protection order. [R.C. 2151.34(E)(5)(a) and 3113.31(E)(7)]
- *See, e.g., State v. Lucas*, 100 Ohio St.3d 1(2003)

Mandatory Firearm Warning [R.C. 2151.34(F)(2) and 3113.31(F)(2)]

- Provide firearms disability notice, orally or by form, upon the issuance of the order
- Requisite statutory firearms warning language also in Form 10.05-F
- 18 U.S.C. 922(g)(8)

No Mutual Orders [R.C. 2151.34(E)(3) and 3113.31(E)(4)]

- If the Respondent files a petition against the initial Petitioner, the initial Petitioner is entitled to due process as outlined in the statute
- No sua sponte order
- Petitioner’s *Ex Parte* hearing cannot be delayed

Duration & Renewal of Order [R.C. 2151.34(E)(2) and 3113.31(E)(3)]

- Valid until a date certain, but not later than the Respondent’s 19th birthday
- May be renewed in same manner as original order was issued

Objections [Civ.R. 65.1(F)(3)(d)]

- ❑ Timely filed objections to the adoption, modification or rejection of the magistrate’s denial or granting of the order does not stay the execution of the order [Civ. R. 65.1(F)(3)(d)]
 - Timely written objection must be filed within 14 days of the filing of the order with the clerk of court
 - Other party may also file objections not later than 10 days after first objections are filed
 - Party filing objections has burden to show an error of law or other defect is evident on the face of the order, or the credible evidence of record is insufficient to support the granting or denial of the protection order, or that the magistrate abused the magistrate’s discretion in including or failing to include specific terms in the protection order
- ❑ Timely filed objections stay the running of time for appeal [Civ.R. 65.1(G)]

Sealing the Record [R.C. 2151.34(E)(6) and 3113.31(E)(9)]

- ❑ DV JCPO and JCPO must be sealed on the Respondent 19th birthday unless the Petitioner provides evidence that the Respondent has not complied with the terms of the order
- ❑ If an order is not issued at the full hearing, the records of the proceeding must be sealed

National Law Enforcement Database [Sup.R. 10]

- ❑ Courts must complete and file Form 10-A with local law enforcement agency for entry of the protection order into the NCIC database file

Issuance, Costs, Indexing & Registration

- ❑ The court shall issue a copy of the order to the Petitioner, Respondent and relevant law enforcement agency. [R.C. 2151.34(F)(1), 3113.31(F)(1), 3113.31(E)(8), and Civ.R. 65.1(C)]
 - Provide a copy of the order to law enforcement agencies in the court’s geographic jurisdiction and where the Petitioner or Respondent live or work, if different from the court’s geographic jurisdiction
 - Personal service of the *Ex Parte* Order [Civ.R. 65.1(C)(2)]
 - Subsequent service of full hearing orders, consent agreements, or other documents follow Civ.R. 5(B) [Civ.R. 65.1(C)(3)]
- ❑ No costs or fees shall be assessed against Petitioners in connection with the filing of the petition or in connection with the filing, issuance, registration, modification, enforcement, dismissal, withdrawal, or service of a protection order, or for obtaining a certified copy of the order [R.C. 2151.34(J), 3113.31(J) and 42 U.S.C. 3796 gg-5]
 - May assess costs if Respondent moves to modify or terminate an order [R.C. 3113.31(E)(8)(e)]
- ❑ Petitioner may register the protection order obtained in another jurisdiction by providing a certified copy of the order to the clerk of court of the common pleas court in the county in which the order is to be registered [R.C. 2151.34(M) and 3113.31(N)]
- ❑ Clerk of court must maintain a registry of certified copies of foreign orders [R.C. 2919.272]

Enforcement & Penalties

- Protection order enforcement
 - Full faith and credit requires law enforcement to enforce qualifying protection orders issued by any state court regardless of whether the Petitioner registered the order [R.C. 2151.34(F)(4) and 3113.31(F)(3)]
 - A protection order against a minor may not supersede a no-contact order, if issued as part of probation
 - The court should engage in reasonable efforts to ascertain the existence and terms of other conflicting orders involving the same parties [Sup.R. 10.06]
- Protection order violation
 - Delinquent child proceeding [R.C. 2151.34(K)(1), 2919.27, and 3113.31(L)(1)(a)]
 - If convicted, person cannot subsequently be punished for contempt of court arising out of the same activity
 - Contempt of court [R.C. 2151.34(K)(2) and 3113.31(L)(2)]
 - A person punished for contempt is entitled to credit for the punishment imposed upon conviction or adjudication as a delinquent child for violating a protection order
 - Affirmative defense for violation [R.C. 2151.34(E)(5)(b) and 3113.31(E)(7)(b)]
 - At its discretion, the court may determine that a Respondent, who entered a prohibited location, did not commit the violation or was not in contempt of court
 - Failure to pay child support [R.C. 3113.31(K)(2)]
 - Respondent is imposed penalty or remedy for contempt for failure to pay
 - Respondent must be assessed all court costs and pay reasonable attorney fees of the adverse party

Modification & Early Termination Checklist [R.C. 3113.31(E)(8)]

- Only applicable to DV JCPO issued pursuant to R.C. 3113.31
- DV JCPO issuing court shall hear the motion
- Protected parties cannot waive or nullify terms of the order [R.C. 3113.31(E)(7)]
- Either Petitioner or Respondent may bring motion for modification or termination
- Normal civil action subject to Civ.R. 65.1
 - No expedited hearing requirement
 - Petitioner's address to remain confidential if requested in original DV JCPO
 - Burden of proof is preponderance of the evidence
- 12 statutory factors
 - Consents of Petitioner to modification or termination of the order
 - Petitioner's fear of the Respondent
 - Current nature of the relationship

- Current circumstances of the parties
 - Relative proximity of the parties' workplaces and residences
 - Minor children in common
- Respondent's compliance with the terms and conditions of the order
- Respondent's continued involvement with illegal drugs or alcohol
- Respondent has been convicted of, pleaded guilty to, or been adjudicated a delinquent child for an offense of violence since the issuance of the order
- Other protection orders, consent agreements, restraining orders, or no contact orders issued against the Respondent since the issuance of the order
- Respondent's participated and completed a domestic violence treatment, intervention program, or other counseling addressing
- Time elapsed since the order was issued
- Respondent's age and health
- Last incident of abuse, threat of harm, or commission of a sexually oriented offense occurred or other relevant information concerning the safety and protection of the Petitioner or other protected parties
- If motion is granted, complete Form 10-A
 - Indicate on Form 10-A "Modification of Previous Form" and file with law enforcement for entry into NCIC protection order database file
- May assess costs against the Respondent if the Respondent moved to modify or terminate the protection order [R.C. 3113.31 (E) (8) (e)]

Civil Protection Order Against Minors Forms [Sup.R. 10.05]

- Clerk of courts must make forms available
- Courts must use the forms promulgated by the Supreme Court or forms that are substantially similar
- Forms are available online at the Supreme Court's website
 - Instructional and information forms translated into selected foreign languages are available online
 - For technical assistance on the protection order forms and related matters contact the Domestic Violence Program at 614.387.9408

Limits to Online Access of Protection Orders [18 U.S.C. 2265(d)(3)]

- Prohibits making publicly available on the Internet information regarding the registration, filing of a petition, or issuance of a protection order if the identity or location of the Petitioner or protected party is likely to be revealed
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THE SUPREME COURT *of* OHIO

PROTECTION ORDERS: STATUTES & RULES REFERENCE CHART

	DVCPO	JCPO DVJCPO	CSPO CSOOPO	DVTPO	CrPO
Definitions; Venue; Jurisdiction; Offenses	3113.31(A) 3113.31(B)	2151.34(A) 2151.34(B) 3113.31(A) 3113.31(B)	2903.214(A) 2903.214(B)	2919.26(A)	2903.213(A)
Right to Relief Not Affected by Fleeing Home to Avoid Abuse	3113.31(B)	3113.31(B)			
Who May Seek Relief; Allegations	3113.31(C)	2151.34(C) 3113.31(C)	2903.214(C)	2919.26(A)(1) 2919.26(C)(1) 2919.26(D)(1)	2903.213(A) 2903.213(D)(1)
Protection Order Claim Separate from Divorce	Civ.R. 75(G)	Civ.R. 75(G)			
Notice to Parent, Guardian, or Legal Custodian		2151.34(C)(3) 2151.34(D)(2)			
Initial Personal Service	Civ.R. 65.1(C)(2)	Civ.R. 65.1(C)(2)	Civ.R. 65.1(C)(2)		
<i>Ex Parte</i> Proceeding with Magistrates	Civ.R. 65.1(F)(2)	Civ.R. 65.1(F)(2)	Civ.R. 65.1(F)(2)		
Inquiry of Prior Orders	Sup.R. 10.06	Sup.R. 10.06			
<i>Ex Parte</i> Order; Hearing Timeline & Notice; Continuances	3113.31(D)	2151.34(D) 3113.31(D)	2903.214(D)	2919.26(C)(1) 2919.26(D)(2)	2903.213(C)(1) 2903.213(D)(2)
Discovery	Civ.R. 65.1(D)	Civ.R. 65.1(D)	Civ.R. 65.1(D)		
Full Hearing Proceeding with Magistrates	Civ.R. 65.1(F)(3)	Civ.R. 65.1(F)(3)	Civ.R. 65.1(F)(3)		
Subsequent Service; Any Type of Service	Civ.R. 65.1(C)(3)	Civ.R. 65.1(C)(3)	Civ.R. 65.1(C)(3)		
Relief: Terms	3113.31(E)	2151.34(E) 3113.31(E)	2903.214(E)	2919.26(C)(1) 2919.26(E)(3)	2903.213(C)(1) 2903.213(E)(3)

PROTECTION ORDERS: STATUTES & RULES REFERENCE CHART - cont.

	DVCPO	JCPO DVJCPO	CSPO CSOOPO	DVTPO	CrPO
Relief: Custody and Support	3113.31(E)(1)(d) 3113.31(E)(1)(e)	3113.31(E)(1)(d) 3113.31(E)(1)(e)			
Objections Following Issuance of Final Appealable Order	Civ.R. 65.1(F)(3)(d)	Civ.R. 65.1(F)(3)(d)	Civ.R. 65.1(F)(3)(d)		
Stay of Appeal if Timely Objections	Civ.R. 65.1(G)	Civ.R. 65.1(G)	Civ.R. 65.1(G)		
Termination of Custody and Support	3113.31(E)(3)(a) 3113.31(E)(3)(b)	3113.31(E)(3)(a) 3113.31(E)(3)(b)			
Emergency Custody when Another Court Has Jurisdiction	3127.18	3127.18			
Duration of Order	3113.31(E)(3)(a)	2151.34(E)(2)(a) 3113.31(E)(3)(a)	2903.214(E)(2)(a)	2919.26(E)(2) 2919.26(D)(4)	2903.213(E)(2) 2903.213(D)(3)
No Mutual Orders Absent Due Process	3113.31(E)(4)	2151.34(E)(3) 3113.31(E)(4)	2903.214(E)(3)	2919.26(I)(2)	
Modifying or Terminating Order; Factors	3113.31(E)(8)	3113.31(E)(8)		2919.26(D)(4) 2919.26(E)(2)	2903.213(D)(3) 2903.213(E)(2)
Confidential Address	3113.31(E)(8)(b) Civ.R. 65.1(C)(4)	3113.31(E)(8)(b) Civ.R. 65.1(C)(4)	Civ.R. 65.1(C)(4)		
Renewing Order	3113.31(E)(3)(c)	2151.34(E)(2)(b) 3113.31(E)(3)(c)	2903.214(E)(2)(b)		
Sealing of Records		2151.34(E)(6) 2151.358(D) 3113.31(E)(9)			
Firearm Notice	3113.31(F)(2)	2151.34(F)(2) 3113.31(F)(2)	2903.214(F)(2)	2919.26(G) 2943.033 Form 10.04-A	
Copies to Parties on Same Day	3113.31(F)(1)	2151.34(F)(1) 3113.31(F)(1)	2903.214(F)(1)	2919.26(G)(1)	2903.213(G)(1)
Law Enforcement Protection Order Index; Enforcement of Protection Order	3113.31(F)(3) 3113.31(F)(4)	2151.34(F)(3) 2151.34(F)(4) 3113.31(F)(3) 3113.31(F)(4)	2903.214(F)(3) 2903.214(F)(4)	2919.26(G)(3) 2919.26(G)(5)	2903.213(G)(2) 2903.213(G)(3)

PROTECTION ORDERS: STATUTES & RULES CHART

	DVCPO	JCPO DVJCPO	CSPO CSOOPO	DVTPO	CrPO
Remedies in Addition to Other Available Remedies	3113.31(G)	2151.34(G) 3113.31(G)	2903.214(G)	2919.26(E) (1)	2903.213(E) (1)
Violating Order	3113.31(L)	2151.34(K) 3113.31(L)	2903.214(K)	2919.26(H)	2903.213(H)
Order Cannot Be Nullified or Waived by Petitioner	3113.31(E) (7) (a)	2151.34(E) (5) (a) 3113.31(E) (7) (a)	2903.214(E) (5) (a)	2919.26(C) (2) (a)	2903.213(C) (2) (a)
Affirmative Defense	3113.31(E) (7) (b)	2151.34(E) (5) (b) 3113.31(E) (7) (b)	2903.214(E) (5) (b)	2919.26(C) (2) (b)	2903.213(C) (2) (b)
Civil Rules Apply; Final, Appealable Order	3113.31(G)	2151.34(G) 3113.31(G)	2903.214(G)		
Reporting Child Abuse	3113.31(H)	2151.34(H) 3113.31(H)	2903.214(H)		
Law Enforcement Inform Victim about Protection Order Relief	3113.31(I)	2151.34(I) 3113.31(I)	2903.214(I)		
Deposit, fees, or costs	3113.31(E) (8) (e) 3113.31(J)	2151.34(J) 3113.31(E) (8) (e) 3113.31(J)	2903.214(J)	2919.26(J)	2903.213(I)
Contempt for Non-payment of Child Support	3113.31(K) (2)	3113.31(K) (2)			
Victim Advocate May Accompany	3113.31(M)	2151.34(L) 3113.31(M)	2903.214(L)	2919.26(A) (2) 2919.26(K) (2)	
Registering Order in Court; Maintain Registry	3113.31(N)	2151.34(M) 3113.31(N)	2903.214(M)	2919.26(G) (4)	
Electronic Monitoring		2151.34(N)	2903.214(N)		
Child as Protected Party	3113.31(O)	3113.31(O)			
Court-appointed Counsel		2151.34(O) Civ.R. 65.1(E)			
NCIC Database	Sup.R. 10	Sup.R. 10	Sup.R. 10	Sup.R. 10	Sup.R. 10
Mandated Forms	Sup.R. 10.01	Sup.R.10.05	Sup.R. 10.03	2919.26(B) Sup.R. 10.02	2903.213(B) Sup.R. 10.03
Full Faith and Credit	18 U.S.C. 2265	18 U.S.C. 2265	18 U.S.C. 2265	18 U.S.C. 2265	18 U.S.C. 2265





KEY FEDERAL DOMESTIC VIOLENCE STATUTES

Interstate Communications Act [18 U.S.C. § 875(c)]

- ❑ It is a federal crime to transmit in interstate or foreign communications, any threat to kidnap or injure another person.
- ❑ It is also a federal crime to use a telephone or other telecommunications device to annoy, abuse, harass, or threaten another person at the called number. Harassing Telephone Calls in Interstate Communications Act [47 U.S.C. §223 (a)(1)(c)]

Federal Domestic Violence Firearm Prohibitions Act [18 U.S.C. § 922(g)(8)]

- ❑ It is a federal crime to possess any firearm(s) or ammunition if subject to a “qualifying” protection order issued for the protection of a spouse or intimate partner.

Interstate Travel to Commit Domestic Violence Act [18 U.S.C. § 2261]

- ❑ It is a federal crime to travel across jurisdictions with the intent to kill, injure, harass, or intimidate a spouse or intimate partner and to commit, or attempt to commit, a crime of violence against that spouse or intimate partner.
- ❑ It is a federal crime to cause a spouse or intimate partner to cross jurisdiction by force, coercion, duress, or fraud, and to commit or attempt to commit a crime of violence against that spouse or intimate partner.

Interstate Stalking Punishment and Prevention Act [18 U.S.C. § 2261A]

- ❑ It is a federal crime to travel across jurisdictions with the intent to kill, injure, harass, or intimidate the victim, or to place the victim, a family member, or a spouse or intimate partner of the victim, in fear of death or serious bodily injury.
- ❑ It is a federal crime to stalk another person across jurisdictions using regular mail, email, or the Internet (i.e., datum).

Interstate Violation of Protection Order Act [18 U.S.C. §2262]

- ❑ It is a federal crime to travel across jurisdictions with the intent to violate a protection order and to subsequently engage in conduct that violates an order or to cause another person to cross jurisdictions by force, coercion, duress, or fraud and to subsequently engage in conduct that violates a protection order.

Full Faith and Credit Given to Protection Orders [18 U.S.C. § 2265]

- ❑ The Violence Against Women Act mandates that all states, territories and tribal courts provide full faith and credit to orders of protection, including injunctions against harassment and stalking, issued by courts of other states, territories, and tribes.





THE SUPREME COURT *of* OHIO

KEY DOMESTIC VIOLENCE CASES

Burden of Proof

- ❑ *Felton v. Felton*, 79 Ohio St.3d 34 (1997)

When granting protection order, trial court must find that petitioner has shown by a preponderance of the evidence that petitioner or petitioner's family are in danger of domestic violence.

Protection Order Violation

- ❑ *State v. Lucas*, 100 Ohio St.3d 1 (2003)

The person who is the protected subject of a protection order may not be prosecuted for aiding and abetting the person against whom the protection order is issued in violating said order.

Family or Household Member; Person Living as Spouse

- ❑ *State v. McGlothan*, 2014-Ohio-85 (2014)

A person who shares or has shared a residence with an intimate partner, i.e., a boyfriend, meets the definition of a family or household member, because the person resides or as resided with the intimate partner, i.e., boyfriend, as a person living as a spouse. In such instances, the sharing of familial or financial responsibilities and consortium need not be proven to prove cohabitation.

- ❑ *State v. Carswell*, 114 Ohio St.3d 210 (2007)

"Person living as a spouse" merely identifies a particular class of persons for the purposes of the domestic-violence statutes. The protection conferred under the domestic violence statute does not create or recognize a legal relationship that approximates the designs, qualities, or significance of marriage as prohibited by Ohio's Marriage Amendment (Section 11, Article XV of the Ohio Constitution).

- ❑ *State v. Williams*, 79 Ohio St.3d 459 (1997)

Offense of domestic violence arises out of the relationship of the parties rather than their exact living circumstances. The essential elements of "cohabitation" are (1) sharing of familial or financial responsibilities and (2) consortium.

Conflicting Order; Modification of a Domestic Violence Civil Protection Order

- ❑ *State v. Price*, 118 Ohio St.3d 144 (2008)

A divorce decree may modify a civil protection order beyond the sections concerning parental rights and responsibilities.

Relief

- *Hayes v. Gibbs*, 2008-Ohio-1115 (1st App. Dist., Hamilton, 2008)

Although the trial court is not required to issue an order for child support because the statute is permissive, the statute [R.C. 3113.31 [(E)(1)(e)]] requires the trial court to consider the merits of petitioner's request for child support.

Sealing the Record

- *Schussheim v Schussheim*, 137 Ohio St.3d 133, 2013-Ohio-4529 (2013)

Courts have inherent authority to grant the judicial remedy of sealing of records in "unusual and exceptional circumstances". To determine whether an "unusual and exceptional circumstances" exists, the court must determine whether the applicant's interests outweigh the legitimate interest of government to maintain the records accessible to the public.



THE SUPREME COURT *of* OHIO

CASE MANAGEMENT AND STATISTICAL REPORTING

Sup.R. 37 establishes case time guidelines for the various case types and requires Judges to submit caseload statistics to the Case Management Section of the Supreme Court of Ohio. For assistance with case reporting, contact the Case Management at 614.387.9410.

Domestic Violence Civil Protection Order Cases

- ❑ **Filing of Cases:** The current time guideline to terminate a domestic violence civil protection order proceedings is under review. Domestic violence cases filed in the Domestic Relations Division of the Court of Common Pleas in accordance with R.C. 3113.31 should be reported on the statistical report Form B as a newly filed case at the time the petition is filed with the clerk of courts.
- ❑ **Termination:** A domestic violence case is considered terminated for reporting purposes only when the dispositional hearing is complete. Domestic violence cases should remain active until the first full hearing is held. After that hearing is held, the case may be terminated for reporting purposes.
- ❑ **Unperfected Service:** In situations where service on the Respondent has not yet been perfected, the court may stay the case by terminating it as Unavailability of Party for trial or sentencing, Line 14 of the statistical reporting Form B. The case should then be reactivated on Line 3 of the statistical reporting Form B once service has been perfected.
- ❑ **Additional Motions Filed in a Pending Case:** Where an additional motion is filed in an active domestic violence case, the additional motion should not be reported separately. Those additional motions should be filed under the domestic violence case number. If, upon termination of the original domestic violence action, an additional motion remains pending, the case shall be re-designated to the appropriate case category and transferred to the appropriate column on the statistical report Form B.
- ❑ **Motions Filed Resulting from a Closed Case:** Should an additional action resulting from a closed domestic violence case be filed, the underlying domestic violence case need not be reactivated. Instead, a new case may be opened in the appropriate case category, e.g. child support, visitation, etc.

Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order

- **Filing:** The current time guideline to terminate a stalking protection order is 24 months. Civil Stalking Protection Order or Civil Sexually Oriented Offense Protection Order cases filed in accordance with R.C. 2903.214 should be reported on the statistical report Form A as a newly filed case at the time the petition is filed with the clerk of courts.

Civil Protection Order Against Minors

- **Filing:** The current time guideline to terminate a juvenile civil protection order proceedings is 6 months. Juvenile Civil Protection Order cases filed in accordance with R.C. 2151.34 should be reported on the statistical report Form D as a newly filed case at the time the petition is filed with the clerk of courts.



DOMESTIC VIOLENCE RISK & LETHALITY BENCH CARD

These risk factors have been validated through research. The presence of these factors may indicate elevated risk. However, the absence of these factors is not evidence of the absence of risk of serious injury or lethality. The factors below can assist the Court in determining the appropriate terms of the protection order.

- Does the Respondent own to a firearm?
- Has the Respondent used or threatened to use a firearm against the Petitioner or Petitioner's family, co-workers or new partner?
- Has the Respondent attempted to strangle the Petitioner?
- Has the Respondent threatened to or attempted to kill the Petitioner or the Petitioner's family, co-workers, or Petitioner's new partner?
- Has the Respondent threatened to abuse or kill Petitioner's or family's pet?
- Does the Petitioner fear the Respondent will re-assault?
- Has the Respondent caused serious physical injuries to the Petitioner or Petitioner's family, co-workers, or new partner?
- Has the Respondent been violent toward the Petitioner outside the home?
- Has the Respondent conveyed through other threats to kill the Petitioner?
- Has the Respondent damaged the Petitioner's property?
- Has the Respondent been violent during the Petitioner's pregnancy or shortly after the birth?
- Has the physical violence increased in frequency or severity over the past year?
- Has the Respondent ever threatened or attempted to commit suicide?
- Has the Respondent forced or pressured the Petitioner to have sexual intercourse?

- Has the Respondent sexually assaulted or attempted to sexually assault the Petitioner?
- Does the Respondent have a history of stalking?
- Does the Respondent attempt to control or control Petitioner's daily activities?
- Has the Respondent taken the Petitioner hostage or restrained the Petitioner's movement?
- Is the Respondent constantly or violently jealous of or extremely hostile to the Petitioner?
- Are there any pending or prior protection orders, criminal or civil cases, involving the Respondent?



DOMESTIC VIOLENCE RISK & LETHALITY

Higher Risk of Lethality when Violence Occurs and...

- Recent increase in the frequency, severity, or type of violence
- Impairment by alcohol or drugs
- The victim is attempting a permanent break
- Estrangements, separations, reunions
- Failure of prior interventions to affect the offender's behavior
- Prior arrests, domestic abuse calls, and/or protection orders
- Isolation of victim (physical or social)
- Victim who expresses fear of threats to be killed
- Victim making no attempt to leave despite severe abuse
- Victim is seeking outside help in the past year
- Victim has a child who is not the offender's
- Offender leaves before law enforcement arrives; eludes warrants
- Offender lacks remorse
- Offender exhibits poor mental health
- Offender is in financial difficulty and/or has unstable housing
- Offender exhibits generalized aggression or acts violently
- Offender engages in ongoing effort to take children from their mother
- History of violence in other relationships
- First act of violence is life-threatening or brutal
- Obsessive control of victim's daily activities
- Obsessive jealousy
- Significant and harmful use of a child drawing others into the abuse (e.g., children, family, friends)
- Non-compliance with probation or pre-trial release conditions

Homicide-Suicide (for Male Offenders)

- Significant risk markers:
 - Ready access to guns
 - Patterns of estrangement and reunion
 - Poor mental health, i.e., depression
 - Obsession or jealousy
 - Alcohol or drug impairment
 - History of domestic violence
 - Attempts or threats of suicide

Women who Kill Male Partners

- Significant risk markers:
 - Severe, increasingly frequent, and recent violence by male partner, i.e., 10+ violent incidents in the last year at hands of person killed
 - Feeling trapped or isolated in a violent relationship
 - Few social resources
 - Access or prior use of weapons
 - Prior law enforcement intervention in one or more domestic violence calls
 - Prior strangulation by person killed
 - Traditional relationship – married, children, lengthy relationship

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- Campbell, J.C. et al., *Assessing Risk Factors for Intimate Partner Homicide*, NIJ Journal, (11/2003): 14-19;
 - Heckert, D.A., *Battered Women's Perceptions of Risk Versus Risk Factors and Instruments in Predicting Repeat Reassault*, J Interpers Violence, 19(7), (2004) 778:800;
 - Kropp, P. Randall. *Intimate Partner Violence Risk Assessment and Management, Violence and Victims*, 23(2), (2008): 202-205;
 - *Minnesota Judges Bench Card* (2009);
 - Praxis International, *The Blueprint for Safety*, (2010);
 - Roehl, J. et al., *Intimate Partner Violence Risk Assessment Validation Study: The RAVE Study Practitioner Summary and Recommendations: Validation of Tools for Assessing Risk from Violent Intimate Partners*, Washington D.C.: U.S. Department of Justice, 2000-WT-VX-0011 National Institute of Justice, (12/2005);
 - Websdale, N. *Lethality Assessment Tools: A Critical Analysis*. Harrisburg, PA: VAWnet. (2/2000).



PROTECTION ORDER HEARING GUIDE

Preliminary Issues Involving Pro Se Litigants

- Direct party to victim advocate or other community services, as appropriate
- Direct party to review standard forms
- If no appropriate community services available, consider
 - Explaining the process
 - Explaining the elements of the offense
 - Indicating which party has the burden of proof
 - Explaining the kind of evidence that may be presented
 - Explaining the limits on the kind of evidence that can be considered
 - Ascertaining language barriers will not preclude the parties participation in the proceeding

Issues Involving Full Hearing

- If not established earlier, ascertain language barriers will not preclude the parties participation in the proceeding
- Establish litigants' relationship
 - Only domestic violence protection order proceedings require the family or household member relationship
- Ascertain Court's jurisdiction for remedy sought
- Underscore the Notices in the Warning Page (Form 10.1-G, 10.03-H, or 10.05-F)
 - Firearm notice
 - Terms of the protection order can only be changed by the court
- Checklist
 - Complete Protection Order
 - Attach Warning Page
 - Complete NCIC Form 10-A
 - Copies to Petitioner, Respondent, and Attorneys, if applicable
 - Copies to relevant law enforcement agencies
 - Copies to any other identified agencies, if any





THE SUPREME COURT *of* OHIO

OTHER LEGAL RESOURCES

- ❑ Supreme Court Case Management Section
<http://www.supremecourt.ohio.gov/JCS/casemng/default.asp>
- ❑ Supreme Court Domestic Violence Program
<http://www.supremecourt.ohio.gov/JCS/domesticViolence/default.asp>
- ❑ Working with Foreign Language Interpreters in the Courtroom
<http://www.supremecourt.ohio.gov/JCS/interpreterSvc/benchcard.pdf>
- ❑ Working with Interpreters for Deaf or Hard of Hearing Persons in the Courtroom
http://www.supremecourt.ohio.gov/Publications/interpreter_services/DeafHOHbenchcard.pdf
- ❑ ABA Commission on Domestic Violence Judicial Checklist (3rd edition)
http://www.americanbar.org/content/dam/aba/migrated/domviol/publications/187815_ABA_Checklist_FINAL.authcheckdam.pdf
- ❑ Applicability of the Violence Against Women Act in Same Sex Relationships
<http://www.justice.gov/olc/2010/vawa-opinion-04272010.pdf>
- ❑ Civil Protection Orders: A Guide to Improving Practice
http://www.ncjfcj.org/images/stories/dept/fvd/pdf/cpo_guide.pdf
- ❑ Domestic Violence Case Summaries by Topic
<http://www.ohiolegalservices.org/public/domestic-violence/dv-case-summaries>
- ❑ Frequently Asked Questions on the Violence Against Women Act 2000 Requirement Regarding Costs for Criminal Charges and Protection Orders
<http://www.ovw.usdoj.gov/faqvawa2000.htm>
- ❑ Juvenile Civil Protection Orders Frequently Asked Questions http://www.supremecourtofohio.gov/JCS/domesticViolence/protection_forms/juvenileForms/default.asp
- ❑ Protection Orders Full Faith and Credit Judicial Bench Card
<http://www.supremecourt.ohio.gov/JCS/domesticViolence/publications/FFC.pdf>



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