

Virginia Protective Orders in Cases of Family Abuse

By Lynette Kleiza

What is a family abuse protective order?

Protective orders are issued by a court to protect adults and/or children from, among other things, acts of family abuse. Pursuant to Virginia Code §16.1-228, “family abuse’ means any act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury and that is committed by a person against such person’s family or household member. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ 18.2-61 et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.” The person seeking the protective order is the “petitioner” and the person accused of family abuse is the “respondent.”

What kinds of family abuse protective orders exist?

In Virginia, in cases of family abuse, the Juvenile and Domestic Relations District Court has jurisdiction over protective order matters and can issue three kinds of protective orders: **emergency protective orders** (issued by a judge or magistrate), **preliminary protective orders** (issued by a judge), and **“permanent” protective orders** (issued by a judge).

Emergency protective orders are in effect for three days (or until the next day court is in session, whichever is later). **Preliminary protective orders** are in effect for fifteen days (or until a full hearing). **“Permanent” protective orders** can be in effect for up to two years and may be extended by further court order.

No matter which kind of protective order is issued, it does not go into effect until the order is personally served on the respondent. A petitioner waiting on service of a protective order can contact the law enforcement agency in the county where the protective order was issued to follow up on the status of service of the protective order.

Are family abuse protective orders criminal in nature?

A protective order is a civil order and is not the same as pressing charges. However, there can be far-reaching implications when a protective order is entered against a respondent including, but not limited to, loss of security clearance.

Additionally, acts of family abuse can rise to the level of criminal offenses and can result in criminal charges. Further, violating the terms of a protective order is a crime and can lead to incarceration.

It is important to note that if a protective order prohibits contact between the petitioner and respondent, it must be strictly followed. These terms can be violated by any communication by the respondent with the petitioner, including when a respondent replies to the petitioner’s communications.

If you are seeking a protective order or have been served with a protective order, you should consult with an experienced attorney to obtain advice best suited for your matter.

Lynette Kleiza is a principal with Paley Rothman and practices law in D.C., Maryland, and Virginia. She has written this blog in observance of Domestic Violence Awareness Month. For statistics on the prevalence of domestic violence nationwide, visit the National Coalition Against Domestic Violence.