

Protective Orders in Family Law Cases

Article By:

Kristina A. Cruz

A protective order is a court order prohibiting an individual from contacting another individual, or committing acts of abuse against another individual, for a period of time up to two years. Other relief can be granted in a protective order such as exclusive use of a dwelling that the victim and offender share or monetary support. There are several important points to note about protective orders that many people misunderstand when they first seek one.

A protective order is a civil form of relief; it is not a criminal sanction against the offender. Only when a person violates a protective order does it then become a criminal matter, as it is a Class 1 Misdemeanor to disobey the protective order.

A protective order can only be granted if the Court is satisfied that the two necessary factors for awarding a protective order have been proven. First, the court must be satisfied that an act of family abuse has occurred. The Virginia Code defines “family abuse” as 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 or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

It is important to note that indirect, conditional or vague threats or threats to another person who is a non-family member can be difficult to prove as an act of family abuse. It should be further noted that non-verbal threats, without physical contact need to be significant for a court to consider it an act of abuse. Laying a weapon on a table is the kind of non-verbal threat that obviously would be considered abusive.

For the second prong, the court must be convinced that a protective order is necessary to protect the health and safety of the Petitioner and/or their household family members. Just because a Petitioner has proven an act of family abuse occurred, it may not be necessary for the Court to issue a protective order if the threat has been eliminated or if another reason exists to lead the Court to believe the abuse will not continue.

For more information on Protective Orders in Family Law Cases, review the following Virginia Code Sections, [16.1-228](#), [16.1-253.4](#), [16.1-253.1](#), [16.1-279.1](#).

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