

# INFORMATION ON PROTECTION FROM ABUSE (PFA) IN PHILADELPHIA COUNTY

Important Things to Remember for Your PFA Hearing	
<input checked="" type="checkbox"/>	Serve PFA documents on the defendant before the hearing (see page 6).
<input checked="" type="checkbox"/>	Go to your PFA hearing even if you CANNOT serve the defendant.
<input checked="" type="checkbox"/>	Pick up any blank subpoenas for witnesses before leaving the court (see pages 9-11).
<input checked="" type="checkbox"/>	Arrange for childcare.
<input checked="" type="checkbox"/>	Arrange for time off of work.
<input checked="" type="checkbox"/>	Contact an attorney or legal aid for legal advice and possible representation.

This brochure was created by the Women's Law Project and Philadelphia Legal Assistance and is meant to give you general information and not legal advice.

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# Information on PFA Orders

Is this brochure for me?

If someone is abusing you or someone in your home, this brochure can help you learn how to seek protection from abuse in Philadelphia Family Court.

## WHAT IS ABUSE?

State law defines abuse as:

- Attempting or causing physical injury
- Placing another in fear of bodily injury
- Sexual assault
- False Imprisonment
- Stalking

## WHAT PROTECTION DOES THE LAW OFFER?

A judge may issue a Protection From Abuse Order (PFA). Depending on the circumstances, the order may require the defendant to:

- Not abuse, threaten, harass or stalk you
- Be evicted from your home, even if it is also the abuser's home
- Stay away from you, even at school or work
- Turn over weapons to the police

The order can also include:

- Temporary child custody
- Temporary child support
- Payments to you for losses
- Payment of your lawyer's fees

## WHO IS ELIGIBLE FOR A PFA ORDER?

A PFA Order is available to anyone abused by a:

- Current or former spouse
- Parent
- Child
- Current or former sexual or intimate partner, including same sex partners, such as a boyfriend/girlfriend or father/mother of your children
- Others related by blood or marriage

## HOW LONG DOES A PFA ORDER LAST?

A PFA order can last up to 36 months and can be extended after a hearing.

## HOW DO I FILE FOR A PFA ORDER?

Go to one of the following offices, where staff will help you prepare a PFA petition. The staff must allow you to file and cannot refuse to let you.

### During Business Hours:

Monday - Friday, 8 a.m. - 5 p.m., you should go to the Domestic Violence Intake Unit, Room 242 of the Family Court located at 34 South 11<sup>th</sup> Street, Philadelphia. The staff will help you.

Go as early as possible and be prepared to wait your turn. Information is available by telephone 24 hours a day at 215-686-3511.

### **At Night, on Weekends or Holidays:**

In an emergency, when the Family Court is closed, you may file for an emergency PFA order at:

Criminal Justice Center, Room B-03  
1301 Filbert Street, Philadelphia, PA  
Tel: 215-683-7280

If the master approves your petition, you will receive an emergency order. It will end at 5 p.m. on the next day that Family Court is open. At that time, Family Court may issue a temporary order.

If you receive an emergency PFA order, you should call Family Court on the next business day at 215-686-3512 to see if a temporary order has been issued for you. If so, you will need to go to Family Court to get it to see what is in the order, which may differ from the emergency order.

If the master denies your petition for an emergency order, you may go to the Domestic Violence Intake Unit (Room 242) of Family Court at 34 S. 11th Street Monday-Friday between 8 a.m. and 5 p.m. to file there.

### **HOW MUCH DOES IT COST?**

Filing a PFA petition is FREE.

### **IS PHILADELPHIA THE RIGHT PLACE FOR ME TO FILE?**

You may file a PFA order in Philadelphia County if:

- You live or work in Philadelphia, or
- the defendant may be served in Philadelphia, or
- the abuse occurred in Philadelphia

If you ask that the defendant be evicted from your home, the law says that you must file in the county where the home is located.

### **WHAT HAPPENS AFTER I FILE MY PETITION AT FAMILY COURT?**

1. You will wait in Room 242 while a judge reviews your petition.
2. You will learn whether the judge has given you a temporary order.
3. You will receive a court date within 10 business days.
4. Staff will give you 2 copies of your order, your petition, and other very important papers.
5. These papers include instructions on how to serve your paperwork on the defendant. See the next page for more information on service.

### **AFTER YOU FILE, BUT BEFORE LEAVING COURT, YOU NEED TO THINK ABOUT:**

- Making arrangements for language access/interpreter at hearing

**and**

- Picking up any blank subpoenas needed for witnesses, explained later in this brochure.

## SERVICE

You must make certain that the defendant gets his or her copy of the paperwork from the court.

- You can give it to him, or you can get any other adult to give it to him. If the defendant does not come to the door, the paperwork may be given to any adult at his or her residence or a person in charge at his work.
- You can ask the police to give it to him. To do this, go to the police district where he lives or works or is known to be.
- Whoever delivers the paperwork to the defendant must complete a Verification of Service, which is included in your packet. The defendant does not need to sign anything. Make sure you bring the signed Verification of Service form to your hearing.
- If you have difficulty making personal service, you may ask the court at your hearing for permission to serve the defendant by U.S. Mail. If you serve by mail, you must mail the petition, the order, and the hearing notice to the defendant's last known address by both regular and certified mail, restricted to defendant only, with return receipt requested.
- If you are not able to serve the defendant prior to the hearing, it is important that you still attend the hearing.

## *Preparing for Your Hearing*

Your hearing is scheduled in less than 10 business days from the date you filed your petition. During this time, you can do many things to prepare.

## EVIDENCE

In the few days before your hearing, you must gather all your evidence. It is important to know what types of evidence the judge might consider and how you should present your evidence.

You may try to present the following types of evidence. The judge will decide whether or not to admit them into evidence. Here are some basic types of evidence and how to introduce them:

### 1. **Medical evidence**

- Hospital records may be introduced, but a discharge summary is NOT enough. You should get a copy of the full medical record. NOTE: You are allowed to black out identifying information such as your address, phone number, social security number, but you should leave your name.
- Local Rule 1904.5 says that copies of bills, hospital records and medical reports may be introduced as evidence without further proof.
- Pictures of bruises, injuries, or damaged property. The person who took the photo does not need to be at the hearing.

2. **Letters, e-mails and text messages from the defendant** may be introduced as evidence. You must explain when the communication was received and how you identified the sender.
3. Damages or **financial losses**, including bills
4. **Phone records** and/or taped or voicemail messages.
  - Recorded messages may be introduced as evidence. You must state when the recording was made, and how you can identify the caller (e.g., "I knew it was the defendant because I know what his/her voice sounds like over the phone" or that the caller ID showed the defendant's phone number).
  - Recorded conversations are not admissible as evidence unless both people are aware and agree the conversation may be recorded.
  - You may want to bring in your own phone records to show defendant's repeated calls.
  - You must leave a camera phone or answering machine with security; when checking in, you should ask the court clerk to assist in getting it to the courtroom.

5. **Police reports** may be useful as evidence if the officer observed the defendant abusing, harassing or threatening the plaintiff or observed bruises, damaged property, etc.
  - In order to obtain a copy of the police report, you must have the "DC" number of the report. You can get this from the police district. Any domestic violence victim who requests a copy of their police report will be provided a copy of the report. It will be provided free of charge and without delay, from either the police district where the event occurred or from the divisional detectives.
  - However, the **police report may not be admitted into evidence unless the police officer is present at the hearing** See page 11 for information about how to get a police officer to appear as a witness at your hearing.

## WITNESSES

1. **Deciding who to ask to be a witness**  
**Witnesses may only testify to events they have actually seen.**
2. **Getting witnesses into the courthouse at 34 S. 11<sup>th</sup> Street**  
You must plan in advance to get your witnesses into Family Court, as they can only enter 34 S. 11<sup>th</sup> Street with a subpoena. It is your responsibility to get the subpoena and make sure the witness has it.

There are 2 types of subpoenas:

➤ **Blue subpoena**, also known as a “friendly witness” subpoena. This subpoena is available in both English and Spanish at Family Court at 34 S. 11<sup>th</sup> Street in Customer Service, Clerk’s office, Domestic Violence Unit, Custody Intake, Custody Master’s Unit, and all courtrooms.

- Pick up all the copies you need on the day you file.
- A blue subpoena cannot be enforced by the court. Use it for cooperative witnesses who are certain to attend the hearing. They must bring the blue subpoena with them to get into the courthouse.

➤ **Red subpoena**

This is enforceable for uncooperative witnesses. It is available at the Family Court Clerk’s Office at 1131 Chestnut Street, Philadelphia, PA.

- Anyone not involved in the case may serve the subpoena to the witness and complete the “Return of Service” on the back. You should take “Return of Service” to court on your court date.
- The witness must receive the subpoena at least a few days before the court date.

### 3. **If my witness can’t come to court, can he or she send a letter?**

Letters or affidavits from witnesses are not acceptable as an alternative to a witness appearing in person. You may ask the court to permit your witness to testify by telephone. You should try to ask by letter before the hearing date.

### 4. **Subpoenaing a police officer as a witness**

- Before you can subpoena a police officer, you need to know his or her badge number, full name, and the date and time of the incident for which you need his or her testimony.
- Next, you will call 215-686-7290 and ask for Ms. Clark or Ms. Campbell and inquire as to the cost of subpoenaing that particular officer. The cost varies greatly depending upon the rank and squad of the officer.
- Once you have the price, get a money order made payable to the "City of Philadelphia" for that amount. The subpoena WILL NOT be approved without the payment. No personal checks or cash will be accepted.
- Take the money order and the subpoena form to 1515 Arch Street, 14th Floor and have the subpoena approved.
- Serve the subpoena on the officer as soon as possible.

## WHAT SHOULD I WEAR TO COURT?

Dressing in a certain way does not mean that you will win or lose your case. However, it is important to show respect for the court. Lawyers normally wear suits, but the court understands that parties to cases in Family Court may not own suits and often do not have the money to buy them. In general, it is best to dress nicely. In court, this means conservatively.

Here are some guidelines:

- No shorts or tank tops
- Women should wear a dress or pants or a skirt with a blouse or sweater. Tight (stretch) pants, short skirts (more than 2 inches above the knee or with high splits), or sheer items are not a good idea.
- Men should wear long pants and a shirt with a collar. They should wear a tie if they can.
- Try not to wear jeans, t-shirts, or athletic shoes.
- Never wear hats or sunglasses in the hearing.
- Stay away from heavy cologne or perfume, lots of jewelry, or body glitter, as they may distract court personnel.

## SAFETY IN THE COURTHOUSE

If you fear that you will be in danger while in the courthouse for the hearing, you should ask the sheriff for assistance.

- If you are afraid to go to the courthouse, you should call the Sheriff's Office at Family Court at 215-686-3526 **before your hearing** to discuss your needs and concerns and ask for help.
- When entering the courthouse, you can ask a sheriff or security guard to escort you to the courtroom.
- If you are concerned about your safety in the waiting room, you should ask the judge's clerk or any court employee for help, explaining you are afraid. The clerk can arrange for a sheriff to be in the courtroom and the waiting room until you are finished.
- If you fear that you could be harmed when leaving the courthouse, you should ask the judge or the judge's clerk for help from a sheriff, who can hold the defendant at court for a period of time (for example, 30 minutes) to allow you to get away.

## WHAT IF I HAVE NO ONE TO WATCH MY CHILDREN ON THE DATE OF THE HEARING?

It is best to make arrangements for someone to take care of your children while you attend your hearing. The children will not be permitted into the courtroom, unless they are testifying and only when needed to testify. If no child care is available, you may bring the children to the court's nursery. If you do this, leave early so you can place the children in the nursery on the first floor and still be on time for your hearing.

## WHAT IF I CAN'T TAKE TIME OFF OF WORK ON THE DATE OF THE HEARING?

On January 5, 2009, the City of Philadelphia adopted a new ordinance called "Entitlement to Leave Due to Domestic or Sexual Violence."

If you, or a family or household member, have been the victim of domestic violence, sexual assault or stalking you may be able to take certain amounts of unpaid leave from work.

You may take leave to do *ANY* of the following for yourself or your household or family member:

- Seek medical attention for physical or psychological injuries;
  - Obtain help from an organization that provides services to domestic or sexual violence victims;
  - Obtain counseling or therapy;
  - Make safety plans, including possibly relocating to increase safety;
  - Seek legal assistance (this includes going to court).
- You must provide your employer with at least 48-hours notice of the leave unless it is not possible for you to do so
- Your employer can require you to provide a certification of the domestic or sexual violence and the reason that you must take the leave.
- You may file a complaint against your employer if your employer refuses to grant you leave or retaliates against you for taking or requesting to take leave.

For more information on this, you may contact the Philadelphia Commission on Human Relations at 215-686-4670 or go to [www.phila.gov/humanrelations](http://www.phila.gov/humanrelations)

## *What to Expect at the Hearing*

- **It is important to appear in court on the hearing date, even if you have not been able to make service.**
- **If you do not show up, your petition will be dismissed and you will not get an order of protection. Any temporary order will be vacated and no longer be in effect.**

## HOW LONG WILL I WAIT FOR MY CASE TO BE CALLED?

There are many cases scheduled for the same time each day. Each party must check in with the court personnel outside the courtroom. Cases may be called by the court in any order. Plan to be at court all day. You may have to wait a long time before your case is called.

## WHERE WILL I WAIT? WHERE WILL THE DEFENDANT WAIT?

You will be in a waiting room until your case is called.

There are separate waiting areas for plaintiffs and defendants. If the defendant harasses or bothers you while you are waiting, you should immediately tell the sheriff and the court personnel.

## IS HELP AVAILABLE FOR ME WHEN I GO FOR MY HEARING?

Women Against Abuse advocates may be in the waiting room to answer questions.

### WHAT SHOULD I DO WHEN I GO IN THE COURTROOM?

Once in the courtroom, the parties will stand at separate tables and may be asked to stand while speaking to the judge.

All parties must be sworn in. The judge will tell each party when to begin to present their case.

You should not interrupt the judge while he or she is speaking. Always address the judge as, "Your Honor."

### WHAT ABOUT MY WITNESSES?

Witnesses will not be permitted in the courtroom until it is their time to testify.

Unless they have a subpoena, as described above, the witnesses may have to wait in the first floor waiting room or outside the building.

They will be called to the courtroom if and when the judge permits them to testify.

### WHAT WILL HAPPEN DURING THE HEARING?

There are several possibilities for what may happen the day of the hearing.

#### 1. What if I don't show up?

If you do not appear, the petition will be dismissed and any temporary protection order will end.

If you know ahead of time that you will not be able attend the hearing, there are two things you may do:

- Fax a letter to the judge stating when the hearing is and why you need to reschedule. If you have already served the defendant, you must send the defendant or his/her attorney a copy of the letter.
- If you are not able to do the above, call the courtroom the day of the hearing and follow up with a letter.

Doing this is not a guarantee that the court will grant your request to reschedule. The court still may dismiss the petition and a temporary order, if one was in place.

#### 2. What if the defendant doesn't show up?

If the defendant does not appear but you were able to serve the defendant the paperwork and have the Affidavit of Service to show the court, the judge may enter a final order "by default." That final order may grant all the relief you requested in your petition.

#### 3. What if the defendant agrees to a PFA order?

The defendant may agree to a final order without admitting to the statements in the petition. In this instance, the judge will not rule on whether the abuse occurred. This is called a final protection order by agreement without admission. It has the same force and effect as a final protection order after a hearing except that it cannot be used as proof that a judge has ruled that abuse occurred. The parties can also agree to other provisions, including a temporary child custody provision.

#### 4. What if the parties don't agree on an order?

If the parties do not reach an agreement, the judge has choices about what to do. Here are some possibilities:

- The **judge will hold a hearing** and decide whether to give you a PFA order, based on the testimony, witnesses, and evidence presented by you and the defendant. There is more information about hearings on the next page.

Or

- The judge may **order that the case be continued** (this means rescheduled, or relisted). There are 3 common reasons why this might occur:
  - If you have not served the defendant with the court papers, the judge will schedule a new court date so you can keep trying, or
  - Either you or the defendant might want to hire a lawyer and the judge agrees to give you time to do this, or
  - If there are criminal charges relating to the same incidents that are in the PFA petition, the judge may delay the hearing until after the criminal charges are resolved. Either party may ask for the PFA hearing to be put off but it is usually in the defendant's interest not to go forward with a hearing until criminal charges have been resolved. The hearing may also be rescheduled if the defendant is in prison and not brought down for the hearing.

Or

- The judge may, by agreement of the parties, **schedule a "status" hearing** in the near future, usually in 60-90 days, to reevaluate the situation. You do not have to agree to a "status" hearing; you may tell the judge you want to have a hearing that day.

#### 5. **What is a status hearing?**

- At the status hearing, the judge will ask if any further abuse occurred since the parties were last in court. If no further abuse has occurred, the judge may suggest that you withdraw the petition. If you agree, the judge will dismiss your case without prejudice. This means the judge will not make any findings about whether abuse happened, and the parties will leave court without any protection orders in effect, including the temporary order, which will be vacated. If you want a hearing, you do not have to agree to withdraw your petition; you are entitled to a hearing on your petition.

#### 6. **What if my case is rescheduled in the future?**

- If you have a temporary order already, it could stay the same or be changed; any temporary order will remain in effect until the next hearing.
- If you don't already have a temporary order, you can ask for one so that you are protected until the next hearing.

### **HOW IS A PFA CASE DECIDED?**

In a PFA case, the burden of proof is a preponderance of the evidence. This means the plaintiff (you) must prove that it is more likely than not that the abuse occurred as defined under the PFA Act, and that the plaintiff (you) has a reasonable fear of further abuse.

## WHAT IS THE ORDER OF THE HEARING?

1. **You (the plaintiff) will present your case**, evidence and witnesses. Here are some tips:

- You should testify about each incident of abuse, beginning with the most recent incident.
- You should be as specific as possible.
- It may be helpful for you to physically demonstrate what the defendant did during an incident of physical abuse.
- While testifying, you should look at the judge. Do not interrupt the judge if she is asking a question or speaking. Address the judge as “Your Honor”. It is ok if you become upset and cry, but you must try to remain calm and focused. You may ask for a minute to collect yourself if necessary.
- Present any documents you brought to the judge. All evidence must be marked as exhibits. You must ask the judge to do this during the hearing. For example, you can say, “Your Honor, could the court please mark this photo as Exhibit 1?” After the evidence is marked, you must ask the judge to admit it into evidence.
- If you want to use photos as evidence, you must do the following:
  - Show the photo to the defendant
  - State:
    - when the photo was taken
    - what the photo shows, and
    - that the photo accurately reflects how the subject appeared on the date the photo was taken.

2. **Cross-examination:** Cross-examination is an opportunity for the opposing side to question the plaintiff or witness about her testimony and/or evidence. After you testify, the defendant will have an opportunity to cross-examine you. After each of your witnesses testifies, the defendant will have an opportunity to cross-examine each of them. This is supposed to be limited to what you or witnesses have said.
3. **The defendant will present his case.** When the defendant’s cross-examination is complete and you have presented all your evidence, the judge will give the defendant an opportunity to present his/her version of events, including witnesses and evidence. It is important for you not to interrupt or contradict the defendant while s/he is testifying. You can make notes about what you disagree with.
4. **Cross-examination:** The judge will give you an opportunity to cross-examine the defendant and each of his witnesses after each testifies. Again, this is usually limited to what the defendant or his witnesses have said and to address the defendant’s or the witnesses’ credibility.
5. **Rebuttal (sometimes called Redirect):** After the defendant has presented all his evidence and witnesses, you may ask to present further testimony, as rebuttal testimony, to address what the defendant has presented.
6. **The judge’s role:** The judge’s job is to decide whether you have proved your case with “a preponderance of the evidence” and if so, what your protection order should include. At any point in the hearing, the judge may interrupt to ask questions or seek clarification from either party.

7. **The outcome:** The hearing will result in either a final order or dismissal of the petition. The judge may also make findings regarding the alleged abuse. The final order may include some or all of the relief available.

**Important:** You must let the judge know during the hearing what specific relief you are seeking.

#### WHAT IF MY PETITION IS DISMISSED?

If the case is dismissed without prejudice, you may file a new petition in the future and may include new instances of abuse as well as any instances of abuse that were listed in your previous petition.

If you are unhappy with the judge's final decision, you may file a motion for reconsideration or an appeal within 30 days. It is recommended that you seek legal advice if you wish to do so.

#### WHAT IF THE DEFENDANT ASKS THE JUDGE TO GIVE HIM A PFA ORDER AGAINST ME?

The defendant may only get an order against you if he or she filed a petition against you before appearing in court for the hearing on your petition.

#### HOW IS THE PFA ORDER ENFORCED?

It is a crime to violate a PFA order. The police should be called immediately.

The District Attorney is responsible for prosecuting anyone who is arrested for violating a PFA order.

You may also file a petition for contempt in Room 242 of the Family Court located at 34 S. 11th Street. After the petition is filed, a hearing will be scheduled within ten days.

If a judge finds the defendant guilty of violating the PFA order, the defendant can be sentenced to prison for up to 6 months and/or fined up to \$1000.

#### FREQUENTLY ASKED QUESTIONS

*The judge granted mutual PFA Orders. What does that mean?*

It means that you have a PFA Order against the defendant and the defendant has a PFA Order against you. Both of you should follow whatever is in the PFA Order in which you are listed as the defendant.

*Can I contact the defendant when there is a "no contact" order in place?*

In order for the defendant to not have contact and stay away from you, it is strongly recommended that you also not contact and stay away from the defendant. If the plaintiff contacts the defendant, enforcing the PFA Order may become more difficult.

*The defendant and I have children together and custody was not included in the PFA Order. How do we handle custody without breaking the PFA Order?*

It depends on if you have a custody order and, if so, what your custody orders states. If it is not possible to follow your custody order without having contact with the defendant, then the custody order should be modified.

If you have not had your final PFA Order hearing yet, you may ask the judge to include a custody provision in the Final PFA Order. Any custody provision in a PFA Order is valid until a custody order is entered or changed at a later custody proceeding.

Custody orders may include provisions that allow minimal contact to allow parents to transfer custody of their children, and can include safe locations for transfers of children, such as a police district. For questions specific to your situation, contact a lawyer.

### **Additional Resources**

#### **Philadelphia Domestic Violence Hotline**

24-hour hotline offering bilingual services to victims of domestic violence, including crisis intervention and referrals  
**866-723-3014**

#### **Women Against Abuse Legal Center**

Legal assistance and representation, or court accompaniment for domestic violence, child support and child custody  
Land Title Building, 100 S. Broad St., 5th Floor  
**215-686-7082**

#### **Senior Law Center**

Free legal representation for Philadelphia residents 60 & over for PFA's, custody and support  
**215-988-1244**

#### **Philadelphia Legal Assistance**

Legal assistance and representation for domestic violence, child support, child custody, divorce, unemployment, bankruptcy & public benefits  
42 S. 15th St., Suite 500  
**215-981-3800**

#### **Women's Law Project**

Legal information on domestic violence, custody, support & divorce (Telephone only, NO REPRESENTATION)  
**215-928-5760**

## NOTES

This brochure was created by the Women's Law Project and Philadelphia Legal Assistance and is meant to give you general information and not legal advice.