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HOW TO GET AN EMERGENCY DOMESTIC ABUSE PROTECTION ORDER

QUICK REFERENCE GUIDE FOR VICTIMS

Protection Orders, filed under the Protection from Domestic Abuse Law, are free of charge and are enforceable wherever the victim travels in the U.S. If you are in fear of immediate harm, you may be able to obtain an Emergency Domestic Abuse Protection Order (DAPO). Section 93-21-7 of the Mississippi Code.

If the abuse occurred within the city limits, or if the abuser lives within the city limits, you should go to the Municipal Court of that city. If the abuse occurred in the county, or if the abuser lives in the county, you should go to the Justice Court of that county. You may also file for a DAPO in County Court. **You do not need an attorney to file for an Emergency DAPO.**

If the clerk's office does not have a Petition for a DAPO for you to fill out, please visit the Attorney General's website to access the form and for step by step instructions at: <https://www.ago.state.ms.us/divisions/bureau-of-victim-assistance/> then click on the Interpersonal/Domestic Violence tab.

Once you have filled out the Petition, the clerk will tell you when you may see the judge. You will appear before the judge and tell them why you are seeking an Emergency DAPO. If you have any evidence of the abuse (photos, police reports, etc.), you should bring that with you so the judge can review it.

The judge will grant your emergency request if they determine there is good cause. Your abuser will not be present in court. Only you will appear before the judge for an Emergency DAPO. If the judge grants the Emergency DAPO, your abuser will be served with the Order. Emergency DAPOs are effective for ten (10) days after which you will go to court for a full hearing where both you and your abuser will be able to tell your stories and present evidence. If your abuser is unable to be served, the judge may extend the Emergency DAPO under certain circumstances for up to twenty (20) days and then hold the full hearing.

You also have the option of going to Chancery or County Court to request a Final DAPO, which can be issued for a longer period of time. The judge will decide the duration of the Final DAPO. Both parties will be present at this hearing. There are no court filing fees or service of process fees.

Please see MCADV's publication, *Where Do I Go From Here?* for more detailed information regarding how to obtain a Domestic Abuse Protection Order.

This Quick Reference Guide for Victims is intended to provide general legal information only, and is not to be considered as or substituted for legal advice.

DOMESTIC ABUSE PROTECTION ORDERS Q & A

Who qualifies for a Domestic Abuse Protection Order (“DAPO”)?

If you are the victim of interpersonal violence and your abuser is:

- *your spouse or former spouse,
- *a person currently living with you as your spouse or who formerly lived with you as your spouse,
- *a current or former dating partner,
- *a person related by blood or marriage and currently or formerly resided together, or
- *a person with whom you have children in common.

What is an Emergency DAPO?

If you are in fear of immediate harm, you may be able to obtain an Emergency DAPO.

Where do I go to get an Emergency DAPO?

If the abuse occurred in the city limits, or if your abuser lives in the city limits, go to the Municipal Court in that city. If the abuse occurred in the county, or your abuser lives in the county, go to the Justice Court in that county. You may also file in County Court.

How long does an Emergency DAPO last?

Ten (10) calendar days or until a hearing may be held, whichever is earlier.

Do I need an attorney to get an Emergency DAPO?

You do not need an attorney to file a Petition for an Emergency DAPO or to present it to the judge.

What is a Temporary DAPO?

This type of order may be entered after a hearing where the abuser has been given the opportunity to be present and heard, and the judge determines that abuse has occurred. A Temporary DAPO may be issued in Municipal Court or Justice Court. You will be required to testify and given the opportunity to present any other evidence or witnesses you may have to prove your case.

How long does a Temporary DAPO last?

Up to thirty (30) days for those who have children together, or up to one year if there are no children together under the age of 18.

What is a Final DAPO?

This type of order may be entered after a hearing where the abuser has been given the opportunity to be present and heard, and the judge determines that abuse occurred. You will be required to present evidence to prove your case.

What courts issue Final DAPOs?

County Courts and Chancery Courts.

How long does a Final DAPO last?

For as long as the judge determines is necessary. If you are awarded custody of your children as part of the DAPO, you must file a separate custody action within 180 days.

DEFINITIONS (M.C.A. § 93-21-3)

◎ Abuse

- › Simple or aggravated assault
- › Stalking or cyberstalking
- › Sexual assault
- › Criminal sexual conduct against a minor

◎ Relationships:

- › current or former spouses
- › persons living as spouses (or former)
- › others related by blood or marriage who live or formerly resided together
- › persons having a child in common
- › persons with a current or former dating relationship