

DATING VIOLENCE, DOMESTIC VIOLENCE AND SEXUAL ASSAULT

PRESENTATION BY

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DATING VIOLENCE



- **PHYSICAL VIOLENCE**- hitting, kicking, or using other type of physical force.
- **SEXUAL VIOLENCE**—forcing or attempting to force a partner to take part in a sex act, sexual touching or non-physical sexual event (e.g. sexting) when the partner does not or cannot consent.
- **PSYCHOLOGICAL AGGRESSION**-Using verbal or non-verbal communication with the intent to harm another person mentally and/or exert control over another person.
- **STALKING**-Is a pattern of repeated unwanted attention and contact by a partner that causes fear or concern for one's own safety or the safety of someone close to the victim.

A group of teenagers are shown from the chest up, arranged in a circle. Some have their hands raised towards the center. The background is dark, and the lighting is dramatic, highlighting their faces and hands. The overall mood is one of unity or a shared experience.

VIOLENT BEHAVIOR OFTEN BEGINS BETWEEN 6TH AND 12TH GRADES

- Females between the ages of 16 and 24 are roughly 3 times more likely than the rest of the population to be abused by an intimate partner.
- 72% of 13 and 14 years old are “dating.”
- 81% of parents believe teen violence is not an issue or admit they don’t know it’s an issue.
- Teen girls who are abused this way are 6 times more likely to become pregnant or contract a sexually transmitted infection.
- Only 1/3 of teens involved in abusive relationships confide in someone about the violence.



REASONS FOR NOT SPEAKING OUT

- Fear of exposing themselves.
- Lack knowledge of laws available to protect them.
 - Threats or control from the abuser.
 - Cultural or religious reasons.
 - Peer pressure.

RESOURCES:

- School counselor or teacher
- Doctor
- Friends
- National Domestic Violence Hotline 1-800-799-7233 (SAFE)





PROTECTIVE ORDERS IN KENTUCKY

- Domestic Violence Order
- Interpersonal Protective Order
- Civil Restraining Orders

LOCAL PROTOCOL

- In Floyd, Johnson, Martin, Magoffin and Pike Counties. Mountain Comprehensive Care writes the EPO and TIPO petitions.
- FLOYD 606-886-4397
- JOHNSON 606-789-3411
- MAGOFFIN 606-349-2914
- MARTIN 606-298-2103
- PIKE 606-432-9794
- Law enforcement, Clerk's office, domestic violence shelter, rape crisis centers all have information on obtaining protective order 24/7.



DOMESTIC VIOLENCE ORDERS (KRS 403.715)


- Emergency Protective Orders protect victims of domestic violence perpetrated by a spouse, a parent, other members of household if victim is a child, unmarried couples who reside together, or couples who share a child in common.
- Domestic violence and abuse means physical injury, serious physical injury, sexual abuse, assault, or the infliction of fear of imminent physical injury, serious physical injury, sexual abuse, or assault.
- A petition can be filed in the county where the victim resides or to the county where the victim has fled to escape the abuse.

INTERPERSONAL PROTECTIVE ORDERS (KRS 456.030)


- Interpersonal protective orders protect victims of dating violence, sexual assault or stalking.
- This is the most common type of order for dating violence cases.
- A petition can be filed by the victim or an adult on behalf of a minor victim.
- The petition can be filed in the county where the victim resides or county where victim has fled to escape dating violence and abuse, stalking or sexual assault.

FILING FOR A PROTECTIVE ORDER:

File a verified petition, requesting an Emergency Protective Order or a Temporary Interpersonal Protective Order, on a form provided by the Courts. The form requires name, age, address, occupation, residence and school of Petitioner.



Petition must include name, age, address, occupation, residence and school of the Respondent, the person or persons who committed the acts complained of in the petition.



The Petition must include facts and circumstances for seeking a protective order.



The Petition must include names, ages and addresses of Petitioner's minor children, if applicable.



PETITION/MOTION FOR ORDER
OF PROTECTION

Case No.
Court District
County Floyd
Division Family

Jane L. Smith
First Middle Last

PETITIONER

(check one or both if applicable) ☐ Petitioner filing on his/her own behalf
☐ Petitioner filing on behalf of minor identified on Page 2

VS.

Robert D. Smith
First Middle Last

RESPONDENT

Information about Respondent:

Current Residence: 123 Main Street, Prestonsburg, KY
Usual Residence: 123 Main Street, Prestonsburg, KY
Occupation: unemployed
Employer Name:
Employer Address:
School/Postsecondary Institution (if currently attending):
Address:

Sex	Race	Birthdate	Height	Weight	Eyes	Hair	Social Security #	Drivers License #	State	Exp. Date
M	W	1-1-80	5'10"	185	hazel	brow	000-000-1101	S-1042978	KY	1-15-23

CAUTION: ☐ Weapon involved ☐ Believed to be armed and dangerous
Petitioner and Respondent are involved in a ☒ divorce ☐ custody ☐ visitation case in Floyd Court.

Petitioner says that on February 14, 2021, in Floyd County, Kentucky, the above-named Respondent engaged in act(s) of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault in that:

Robert came home after drinking with his friends. He accused me of cheating on him. He grabbed my phone and looked at my messages. He threw the phone at my face, hitting my cheek and causing a bruise. He grabbed me around the neck and choked me until I blacked out. He threatened to shoot me and to burn down the house with me in it. This is not the first time that he has hurt me. He has smacked me before. He left the house. I called the police and they suggested I file an EPO. He was not arrested because the officer said he didn't see him committing any violence and I did not have any marks on me. I filed a divorce case, but he has not been served with the divorce.

* If additional space is needed please use a separate sheet of paper and attach to the Petition/Motion.

Copies to:
Court File
Respondent (copy with blacked-out portion served with summons)
Court Clerk in County of Petitioner's usual residence, if different
Law enforcement agency/dispatch responsible for LINK entry
Petitioner
Local Department of Community Based Services, CHFS
Law enforcement agency(ies) designated for service

ENSURE ENTRIES IN BOXES ARE COMPLETE, ACCURATE AND LEGIBLE TO ALLOW PROMPT ENTRY INTO LINK IF ORDER OR SUMMONS ISSUES, AND TO ENABLE THE COURT TO OBTAIN RESPONDENT'S DOMESTIC VIOLENCE AND CRIMINAL HISTORY.

1. Information about Petitioner or minor (if filing on behalf of a minor):

Name: Jane Smith Birthdate: 1-15-1985 Age: 36
Usual Residence: 234 Maple Street Prestonsburg, KY 41653
Directions for rural areas: _____
Length of residence there: 5 years
Current Residence (if different from above): same
Directions for rural areas: _____
Length of residence there: _____
Occupation: teacher's aide
Employer Name: Floyd County Schools
Employer Address: _____
School/Postsecondary Institution (if currently attending): _____
Address: _____

2. Respondent's relationship to Petitioner: ☒ married; ☐ formerly married; ☐ unmarried, with child in common;
☐ unmarried, currently or formerly living together; ☐ parent; ☐ child; ☐ stepparent; ☐ grandparent; ☐ grandchild;
☐ person who lives in the same household as a child(ren) if the child(ren) is the alleged victim (specify): _____

☐ currently or previously in a dating relationship. A "dating relationship" means a relationship of a romantic or intimate nature. Length of the relationship, frequency and type of interaction between the Petitioner and Respondent may be considered.

☐ none of the above relationships apply, but Respondent is alleged to have committed ☐ stalking or ☐ sexual assault

3. If Petitioner and Respondent have minor children, complete the following:

Name	Birthdate	Address	Parent is	Are you seeking protection for this child?
Bobby Junior	July 4, 2015	234 Maple Street, P-burg, KY	<input checked="" type="checkbox"/> Pet. <input checked="" type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
			<input type="checkbox"/> Pet. <input type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Pet. <input type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Pet. <input type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Pet. <input type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input type="checkbox"/> No
			<input type="checkbox"/> Pet. <input type="checkbox"/> Resp.	<input type="checkbox"/> Yes <input type="checkbox"/> No

MOTION FOR RELIEF

Case No. _____

☒ Petitioner OR ☐ Petitioner, on behalf of minor child, requests that the Court:

(1) **Issue an emergency or temporary protective order** based on the presence of an immediate and present danger of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault to:

☒ **restrain Respondent** from committing any further acts of domestic violence and abuse, dating violence and abuse, stalking, or sexual assault.

☒ **restrain Respondent** from any unauthorized contact or communication with Petitioner or other person specified by the Court. If other person(s) are in need of protection, provide name, date of birth, and state why they need protection:

If you need to list additional names, please attach separate sheet of paper.

☒ **restrain Respondent** from going to or within a specified distance of a specifically described **residence, school, or place of employment, or area where such a place is located.**

* Any address information provided will not be considered confidential and will be available to the Respondent.

Location: 234 Maple Street

What danger exists?: _____

Location: Prestonsburg Elementary

What danger exists?: _____

If you need to list additional locations, please attach separate sheet of paper.

☒ **restrain Respondent** from disposing of, or damaging, any property of the parties.

☐ **direct Respondent to vacate** residence shared by the parties located at (specify address): _____;

☒ **grant temporary custody** of minor child(ren).

☒ **award temporary child support** in accordance with KY Child Support Guidelines. I will, if possible, document income of both parents at the hearing by producing income tax returns, paystubs or employer statements. If either parent is self-employed I will, if possible, produce receipts and expense statements. I understand Respondent will also be notified by **summons** to produce these documents.

☐ **grant other relief** which would assist in stopping further violence and abuse, stalking, or sexual assault (describe): _____;

_____; and,
(2) **Cause a summons to be issued for Respondent**, setting a date, time and place for a **hearing** to consider all relief to which Petitioner may be entitled, including those matters contained in paragraph (1) on this page of this motion, and as appropriate, **mandatory** counseling for Respondent and other relief as may be authorized by statute.

Petitioner states the allegations contained herein are true on information and belief.

Petitioner's Signature

NOTICE: ISSUANCE OR DENIAL OF AN EMERGENCY OR TEMPORARY PROTECTIVE ORDER DOES NOT PREVENT YOU FROM CONSULTING WITH THE COUNTY ATTORNEY ABOUT FILING CRIMINAL CHARGES AGAINST THE RESPONDENT.

Subscribed and sworn to before me on _____, 2____.

Date: _____, 2____. _____ *Name

Title

**Must be signed by circuit clerk or other individual authorized by Court to provide and verify emergency petitions.*

COURT ACTION:

EPO: ☐ Issued ☐ Denied because:

☐ Insufficient relationship ☐ Fails to state an immediate and present danger of domestic violence and abuse.

Summons for DVO Hearing : ☐ Issued ☐ Denied because:

☐ Insufficient relationship ☐ Fails to state an act or threat of domestic violence and abuse.

TIPO: ☐ Issued ☐ Denied because:

☐ Insufficient relationship ☐ Fails to state an immediate and present danger of dating violence and abuse, stalking, or sexual assault.

Summons for IPO Hearing : ☐ Issued ☐ Denied because:

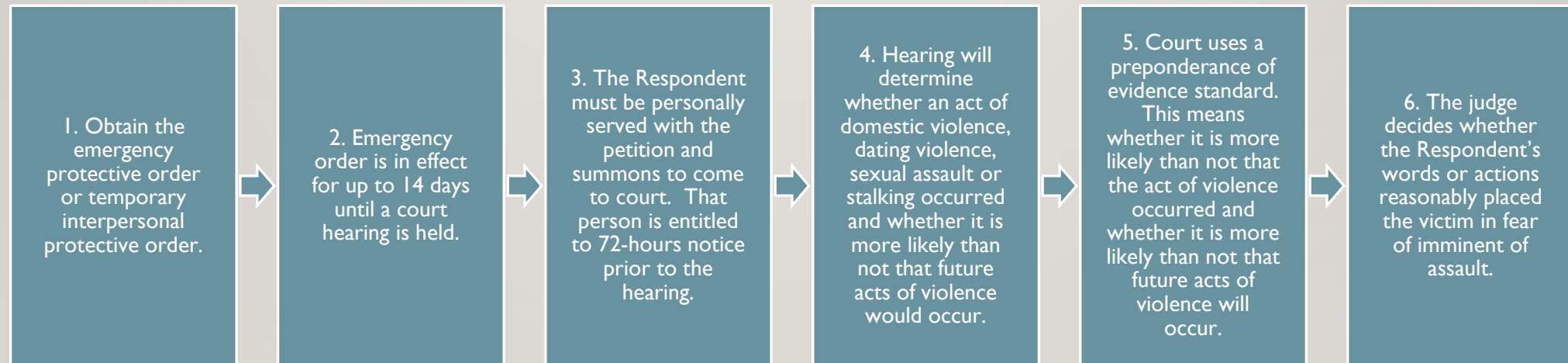
☐ Insufficient relationship ☐ Fails to state an act or threat of dating violence and abuse, stalking, or sexual assault.

Additional comments: _____

_____, 2____.

Judge

AFTER THE EPO OR TIPO IS FILED:



AT THE HEARING:

- Victims can present evidence of the violence, sexual assault, or stalking. Evidence may include photos which show injuries, screenshots of texts or social media posts where threats were made, audio or video recordings showing the violence, school records, hospital records or police action.
- For an IPO, there is no minimum age for a person seeking protection. However, for court purposes, the parent or guardian of an underage person is listed as the petitioner.
- If the court finds grounds to issue a Domestic Violence Order (DVO)or I Interpersonal Protective Order (IPO), the order can last up to 3 years. These orders are entered after the hearing and replace the Emergency Protective Order (EPO) or Temporary Interpersonal Protective Order (TIPO).
- Judge can order no contact with the victim, to stay away from home, school or workplace, or require the party to vacate the home. A judge can grant temporary custody, visitation and child support, though many judges are leery of dealing with those issues in the protection case.

OTHER PROVISIONS:

- Distance restriction is usually 500 feet.
- Orders typically bar any communication or third-party contact and bar contact through social media.
- For students with IPO, the school must develop a safety plan and provide it to the court. Plan requires Respondent be kept away from the victim. This might be change of class schedules, bus schedules, lunch schedules or housing if in college.



SERVICE ISSUES

- Lack of service of Respondent will cause case to be rescheduled within 2 weeks.
- Court can keep continuing case for up to 6 months with original EPO provisions in place.
- Service is a real issue in rural areas.
- Service must be PERSONAL and not by certified mail or other means.

DIFFERENCES BETWEEN IPO & DVO

- The main difference in the two kinds of orders is who is eligible for the order. The DVO requires a family relationship, child in common or couples who lived together, while the IPO covers people who are dating. The IPO covers stalking, so if the parties were never dating, but one party is being stalked, the order applies.
- Another major difference is that federal gun ban only applies to Respondents who have a Domestic Violence Order entered against them.
- Federal gun ban does not apply to Respondents who have an Interpersonal Protective Order entered against them.

CIVIL RESTRAINING ORDERS

- A Civil Restraining Order (CRO) is an order from a judge that says you can be subject to contempt powers of the court for violation of the civil order.
- This type of order requires some other kind of court action in addition to the domestic violence or interpersonal protection case where the civil restraining order can be entered. Typically, this is a divorce case or a custody case that is, also, in the courts.



POSSIBLE CRIMINAL CHARGES

Assault

Kentucky has four classes of assault.

- Most common in domestic violence cases is 4th degree assault, a misdemeanor

NON-FATAL STRANGULATION

- Non-fatal Strangulation-Kentucky has 1st Degree (KRS 508.170), which is a class C felony and punishable with 5-10 years imprisonment. 2nd Degree (KRS 508.175) is Class D felony, punishable with 1-5 years imprisonment. (Difference is intentionally versus wantonly impedes the natural breathing or circulation of the blood by applying pressure on neck or throat of other person, or blocking nose or mouth of that person.)
- Non-fatal strangulation is very serious and can cause long lasting effects on the victim.



STALKING



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- Stalking (KRS 508.130 and KRS 508.140) can be either actual or cyber. It requires more than one incidence. Actions must be directed at a specific person and the intentional course of conduct seriously alarms, annoys, intimidates or harasses the person and serves no legitimate purpose. Stalking can be a misdemeanor or felony. Felony requires the basic elements of misdemeanor, but requires additional circumstances, such as a protective order was previously entered, a criminal complaint is pending against defendant, that defendant was convicted or pled guilty within 5 years to a felony or Class A misdemeanor against the same victim, or acts were committed while the defendant had a deadly weapon.



REVENGE PORN

- Revenge Porn (KRS 531.120) is the distribution of sexually explicit images without consent. This is a Class A misdemeanor for first offense and Class D felony for each subsequent offense, unless the distribution is for profit and then it's a Class D felony for first offense and Class C for each subsequent offense.
- Consent to creation of the visual image does not, by itself, does not constitute consent to distribute the visual image.

FEDERAL LAW

- 18 US CODE SECTION 2551
- Sexual Exploitation of Children
- Federal law covers any person who employs, uses, persuades, induces, entices or coerces a minor to engage in, or who has a minor assist any other person engage in, or who transports any minor in or affecting interstate commerce, with intent that the minor engage in any sexually explicit conduct for purpose of transmitting live visual depiction of the conduct.
- Perpetrators are subject to 15- 30 years in prison.

HUMAN TRAFFICKING

- Human Trafficking is a modern-day form of slavery. It is a crime under federal and international law. It is a crime in every state in the U.S.
- Sex Trafficking is recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting a person for purposes of a commercial sex act, in which the act is induced by force, fraud or coercion and which the person is under 18. (22 USC, Section 7102)
- Labor Trafficking is the recruitment, harboring, transportation, or obtaining person or services through force, fraud or coercion for the purposes of involuntary servitude, peonage, debt bondage or slavery. (22 USC Section 7102)

LGBTQ ISSUES

- LGBTQ+ community experiences domestic and dating violence in many forms. Violence can be physical violence, sexual assault or stalking.
- LGBTQ+ community is under-represented in the courts.
- Many people are reluctant to seek protection because they may not be out to family, friends or community.
- Some people may be unaware that protective orders are available for same sex couples.

LGBTQ + RESOURCES

- <http://www.aclu-ky.org> (AMERICAN CIVIL LIBERTIES UNION)
- <http://www.transkentucky.com> (TRANS KENTUCKY)
- <http://www.fairness.org> (KY FAIRNESS PROJECT)
- <http://www.glaad.org> — (**Gay** & Lesbian Alliance Against Defamation GLADD)
- <https://www.thetrevorproject.org/resources> (TREVOR PROJECT)
- <https://translifeline.org> (TRANS LIFELINE PEER SUPPORT)
- <http://www.glnh.org>. (GLBT NATIONAL HELP CENTER)
- <http://www.nbjc.org> (NATIONAL BLACK JUSTICE COALITION)

RESOURCES

- APPALRED LEGAL AID 1-866-277-5733
WWW.ARDFKY.ORG
- Turning Point Domestic Violence Services
- 1-800-649-6605
- Mountain Comprehensive Care Center Healing Place
606-886-4343
- SCHOOL COUNSELORS
- DoSomething.org
- CDC.gov
- Humantraffickinghotline.org