

Served with a Domestic Violence Petition?

Why It Is Essential To Appear and Defend Yourself in Court

by Marci R. Carroll, Esq.

You've been served with a temporary domestic violence order and a copy of a domestic violence petition which has been filed against you. Perhaps you've been summarily escorted from your home by law enforcement and denied contact with your children as part of that temporary order. Feel like the deck is stacked against you and that there is no sense in subjecting yourself to more of the same?

Even if you suspect that you may have in fact committed domestic violence, the absolute worst thing you can do is NOT appear for the final domestic violence hearing which has been scheduled in the next few days. To begin with, not every spat or argument qualifies as domestic violence. Remember that when the domestic violence petition was filed, the magistrate only had the opportunity to hear one side of the story – that of the alleged victim! In most cases, you should make sure that the family court has the opportunity to hear your side of the story so that the judge can better evaluate what happened and whether a final protective order should be entered. Further, if a final protective order is not appropriate under the circumstances, you need the family court to resist the temptation to issue a final protective order against you simply to be able temporarily decide some immediate issues, such as basic custody/visitation and temporary possession of the residence, between parties who obviously are arguing quite a bit over just about everything. If a final protective order is issued against you, the family court will decide what type of relief should be granted, and you will want to be heard on those issues. As you can tell from the temporary domestic violence order, there are a variety of types of mandatory and optional relief that may be granted. The family court may address such issues child support, alimony/spousal support, possession of such items as residence and vehicles, possession of certain essential personal property, custody/visitation/parenting plan issues, and issuance of a constructive trust.

You should also consider some of the less obvious implications of having a final protective order entered against you. Under federal and state law if a final protective order is entered against you, you are prohibited from possessing or owning any firearm or ammunition; this is a mandatory provision, cannot be overridden by a license to possess a firearm or to carry a concealed pistol or revolver, and is taken very seriously. If you are headed to (or headed back to in the near future) family court for divorce, paternity, custody/visitation/parenting plan issues, what happens at a domestic violence hearing can unfortunately set the stage for those later proceedings. Having a final domestic violence order against you could potentially come back to haunt you later on in the context of either civil or criminal contempt if you are accused of not adhering to the terms of the protective order or even be used against you in subsequent, unrelated legal proceedings in certain circumstances. You could also be faced with having to disclose the fact that a civil final protective order has been entered against you on future applications and other

situations or having to report the entry of the protective order against you to an employer or a licensure board in certain types of employment or professions.

If you have been served with a temporary domestic violence order, also known as a emergency protective order or a temporary emergency protective order, the assistance of a knowledgeable and dedicated family law attorney can be invaluable. If you are contemplating hiring an attorney to represent you, securing representation as soon after you are served as possible is vital to giving the attorney a better opportunity to speak to witnesses and gather potential evidence to strengthen your defense.

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