

Filing a Restraining Order in Florida¹

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After a charge or arrest for domestic violence, the abuser may still find ways to cause harm. One of the most common threats faced after ending a violent relationship is stalking. *Stalking* is when someone repeatedly follows, harasses, or makes threats against you (Coleman, 1997).



Figure 1. There are legal protections to keep you safe while you file for an injunction.

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Fortunately, there are laws and legal protections that can work to keep you safe if you are stalked. The first and often most powerful of these protections is filing an injunction (First Judicial Circuit Court of Florida, 2011). In this publication, we will explore what an injunction is, how it is filed, and what it protects you against.

What Is an Injunction?

An injunction, more commonly known as a *restraining order*, is a legal document that stops a person from coming within a certain distance from you (First Judicial Court of Florida, 2011). This legal order is often used in cases of domestic violence, dating violence, and sexual violence to protect the victim from future harm. Even if you have already left the abuser and you live separately from that person, you can still file an injunction. Anyone can file an injunction, even if you are not in an official relationship or a legally defined marriage, although the process may be slightly different based on your living situation and marital status. You also do not need a lawyer to file an injunction, but it is helpful to contact a domestic violence advocate to help you understand and complete the paperwork.

If you are filing an injunction to protect against domestic violence, there is no fee that has to be paid to file, but you do need to provide a photo ID. The injunction must be filed at a court in the area where you currently live, where you temporarily live, where the abuser lives, or where the domestic violence took place (Domestic violence; public records exemption, 2013). Once filed, two official copies of the injunction will be issued, with one being served to the abuser. Information on state resources for victims of domestic violence will also likely be provided to the victim at this time.

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How Would This Protect Me?

An injunction can lead to penalties if your abuser does not stay away from you, and it can also keep you safe when trying to get all of your belongings returned to you. When the injunction is officially filed, you may ask a law enforcement officer to come with you when you go to the abuser's home to collect your belongings. Within 24 hours of the injunction's filing, the local sheriff's office in the area where the injunction is filed will have a copy of the injunction and will be able to make sure that it is fully enforced.

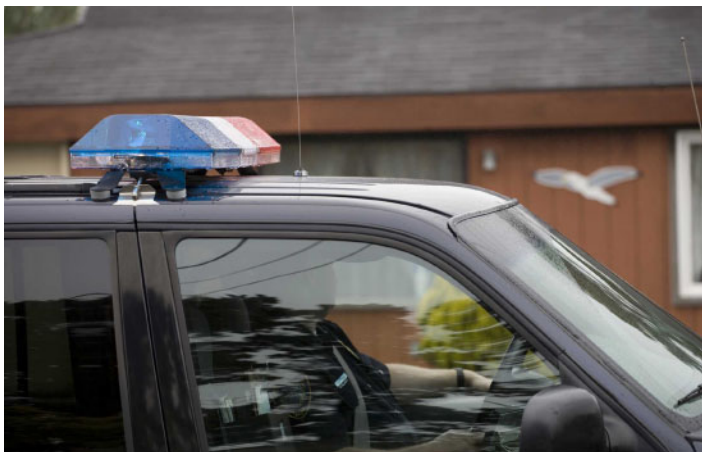


Figure 2. After an injunction/restraining order is officially filed, you can ask a law enforcement officer to go with you to collect your things from the abuser's home.

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If an injunction is violated there are penalties for the abuser, but only if the violation is reported. If there was not an arrest when the violation occurred, you should contact the circuit court in the area where the injunction was filed. The violation can be reported at the circuit court. This report will then be forwarded to the local law enforcement agency, which will conduct an investigation within 20 days of receiving the notice. The information found in the investigation will then be forwarded to the State Attorney, who will decide whether or not to go forward with criminal charges.

If the court recognizes that a violation of the injunction may put you in immediate danger and if no evidence is put forward to defend the abuser, he/she will be held in criminal contempt, which means disobeying the court. Some of the ways that an injunction may be violated include the following (Domestic violence; public records exemption, 2013):

1. Refusing to leave your home.
2. Coming within 500 feet of your home, school, workplace, family member, or places where you are frequently found.

3. Committing violence against you.
4. Threatening you or acting in a violent manner.
5. Attempting to contact you in any way unless allowed in the injunction.
6. Coming near your car even if you are not currently in the vehicle.
7. Destroying your property.
8. Refusing to surrender guns or ammunition if ordered to do so by the court. This is also a misdemeanor.

If any injuries or property damage results from the violation of the injunction, then the abuser can be charged for damages and any attorney fees.

After Filing Your Injunction Paperwork

Temporary Injunction

After you have filled out all the paperwork and you have returned it to the clerk of the court, then it is up to the judge to approve or deny a temporary injunction. This is decided based on the facts that you gave in your paperwork. If the facts convince the judge that you are a victim of domestic violence or you are in danger of experiencing violence, then you will be given a temporary injunction (Florida Supreme Court Approved Family Law Form 12.980(a), 2012). This injunction will be in effect for 15 days. During this time, a hearing for the final injunction will take place (WCADV, N.D.).

If you are denied a temporary injunction because the judge did not think that you were in immediate danger based on the facts you gave, then you have some options. You can file for a petition and will be given a full hearing at a later date. If your petition is denied, you can file something called a "Supplemental Affidavit" to help support your case. Attending a hearing to explain your case is also helpful in this situation (Florida Supreme Court Approved Family Law Form 12.980(a), 2012).

Final Hearing

The final hearing will decide whether or not a full injunction is granted and what the terms of the injunction will be. The decision from this hearing will be in effect forever, unless good reason is given for it to be changed (First Judicial Circuit Court of Florida, 2011). This is your time to tell

your account of the abuse that you experienced. You may bring witnesses to the hearing and include any documents that may help prove your case. These documents include any photos, police reports, and medical reports. At the end of this hearing, you will be asked questions about how long you want the injunction to last and what kind of injunction you want to have against your abuser. If your injunction is approved, it will be in full force for as long as you wish to keep it in place (WCADV, N.D).

Here is a table that summarizes the steps to take to file an injunction:

Filing an Injunction

Steps to Take	What to Expect/Things to Consider
Go to the courthouse and get the needed documents.	You must file for an injunction in one of the following cities or counties: <ul style="list-style-type: none"> • where your abuser lives • where you currently live (no matter how long) • where you were abused No fee will be charged to file. A photo ID is required to file.
Carefully fill out forms.	Filling out paperwork can be a complex process. Don't guess about anything—be sure to ask if you have questions. To get a domestic violence advocate in your area to help you with paperwork, call 1-800-500-1119 ext. 2.
Return the paperwork to the clerk of the court for the judge to look over.	After giving your paperwork to the clerk of the court, it will be passed along to a judge. The judge will look over the paperwork and decide if you are in enough danger to be given a temporary injunction. Note: The injunction is not in effect until your abuser is notified by law enforcement.
Temporary injunction	If the judge decides to give you a temporary injunction, it will protect you for 15 days. If the temporary injunction requires the abuser to leave the home, then a police officer will go with you to make sure he or she leaves peacefully
Attend the court hearing.	To get a final injunction, a court hearing must take place. This hearing will be within 15 days of the temporary injunction start date. You MUST be at this hearing, because it is unlikely that you will be able to get another court date if you do not show up. If your abuser does not show up, the hearing will often proceed but sometimes another date will be given. If another date is set, make sure that the judge extends the temporary injunction BEFORE you leave the courtroom.

References

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