

# HOW TO GET AN ORDER OF PROTECTION IN SHELBY COUNTY

## **File forms at Citizens' Dispute**

Until the Family Safety Center opens later in 2011 at 1750 Madison\*, you must file for the Order of Protection at Citizens Dispute if the abuse happened in Shelby County or your abuser lives in Shelby County. Citizens' Dispute in Room LL-01 at 201 Poplar will help you fill out forms. You must include: date of abuse, sexual assault/rape, stalking, where abuse happened, specific details of why you are in fear and how you were hurt, if you called the police and if the abuser was arrested, etc. Return completed form to Citizens' Dispute and meet with the counselor who will input your information and have you sign that the information is true. You cannot be charged a fee to file an OP.

## **A Judicial Commissioner reviews for an ex-parte or temporary Order of Protection**

Citizen's Dispute will have a Judicial Commissioner review your paperwork. The OP request will be sent to a Commissioner by computer. The Commissioner might sign an Ex-Parte Order of Protection that serves as a temporary Order until your court date when the Commissioner will hold a hearing about whether to grant you a Final Order. Until then, the Ex-Parte orders your alleged abuser to have no contact with you. The Ex-Parte will have a court date listed on it for the hearing; if not, call Citizen's Dispute and ask for the date. If you are not granted an Ex-Parte Order, you still have the right to a hearing to get the Order of Protection.

After the FSC opens, domestic violence victims should go to 1750 Madison where a counselor will generate an Ex-Parte Order of Protection for you. The order request will be sent to a Commissioner by computer. A hearing of the Ex-Parte request will be held via video conferencing. If the Commissioner determines the Ex-Parte request should be issued, his or her signature will be attached by electronic means and the signed order will be sent via computer to you at the Family Safety Center.

## **Sheriff serves temporary Order of Protection and/or petition for Order of Protection on the Respondent (alleged abuser)**

Before a hearing for a Permanent Order can take place, the Respondent (alleged abuser) must be served with the Temporary/Ex-Parte Order of Protection and/or Petition for Order of Protection. The Sheriff will attempt to serve the Temporary Order on the alleged abuser three times at the location you provide. If the Sheriff is unable to locate and serve after three attempts, you will be required to provide additional information on possible locations or to hire a private process server.

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## **Hearing for permanent Order of Protection**

After your alleged abuser has been served, you and that person will appear in the Hearing Room on the 2<sup>nd</sup> Floor of 201 Poplar for a hearing within 15 days from when you filed. You must show up on hearing date to testify or the petition will be dismissed. If the abuser was given notice of the hearing but does not show up, a default order may be entered for you. None of this has any part in any criminal charges the alleged abuser might face. If you are both there, the Judicial Commissioner will listen to you both and then decide if a Permanent Order of Protection should be granted. You may hire an attorney to represent you, as may the alleged abuser, if you chose to do so. The Judicial Commissioner will generally grant one continuance (a new hearing date) if either party indicates that he or she wants to hire an attorney.

*At every court date, the Petitioner (victim) should be ready to present all of the evidence that he or she intends to present to support the request for a Permanent Order of Protection. (Such as: witnesses, emails, photos, phone messages, etc.) Mere allegations without evidence presented are less likely to result in the Judicial Commissioner granting the Permanent Order.*

## **Respondent (alleged abuser) can agree to an OP; cannot have firearms**

Your alleged abuser might agree to give you an Agreed Order of Protection without admitting or agreeing that your allegations are true. If the alleged abuser has a criminal case that is related to the Order of Protection matter, the Agreed Order of Protection cannot be used against him or her. The Agreed Order has the same penalties as the Permanent Order entered after a hearing. If the Order of Protection is granted, the alleged abuser will be ordered not to have contact with you for one year. An alleged abuser also will generally not be allowed to own, possess, or carry a firearm if under a Permanent Order of Protection. The alleged abuser must sign an Affidavit of Firearms Disposition Form declaring either that he/she does not own a weapon or how he/she intends to dispose of any weapons owned.

## **Denied order can be appealed**

If for some reason after a hearing, your petition is dismissed or denied, you can appeal this decision by filing an appeal in Lower Level Room 81 at 201 Poplar. You should not be assessed a bond or fee for filing this appeal.

If you file a petition for an Order of Protection with false information, costs may be assessed against you. Costs will not be assessed if a petition is dismissed: at your request, for failure to attend the hearing, or for incorrectly filling out the petition.