

Protection Orders: A Comparison

Erica Davis
Family Court

Katelyn Will
Superior Court

Traci Murphy
Coalition for a
Safer DE

Lauren White
YWCA SARC

PFA?
LVPO?
SVPO?





take care
of yourself

take care



**Descriptions of traumatic situations,
violence**



Unexpected reactions are *normal*



Use strategies that work for *you*

Learning Objectives

1. Distinguish between the different types of civil protection orders
2. Explain the high-level process for each
3. Help survivors decide which is the appropriate option

**Protection from Abuse Order
(PFA)**

**Sexual Violence Protection
Order (SVPO)**

**Lethal Violence Protection Order
(LVPO)**

What is a Protection From Abuse Order?



Who can file for a PFA?

Spouse or former spouse

Living together/coupled

People with a child in common

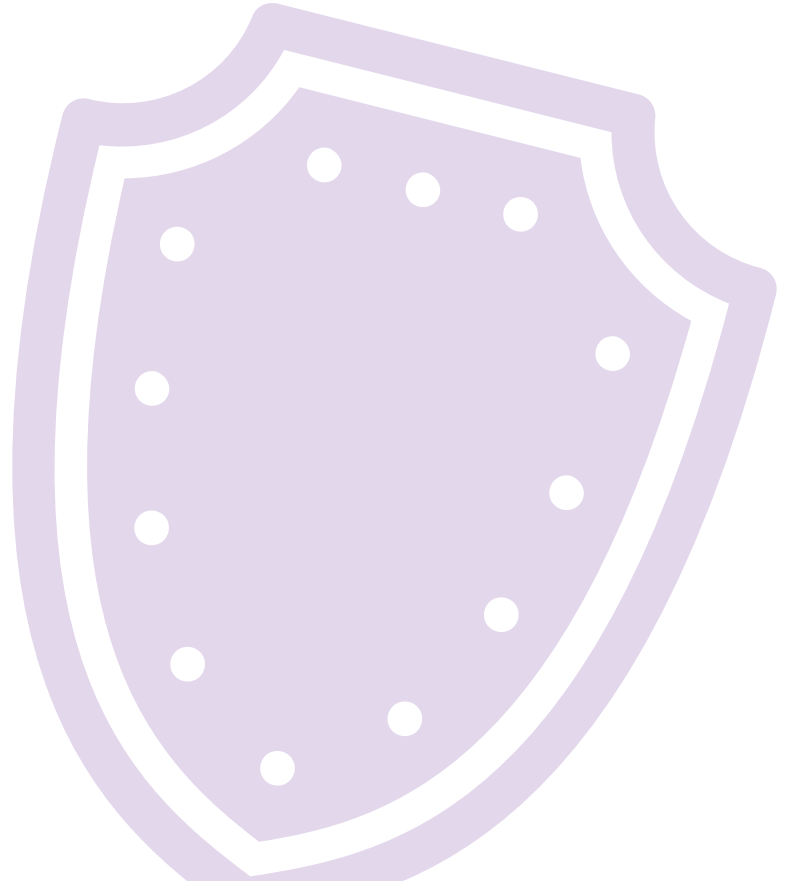
Current/former substantive dating relationship

Family by blood, adoption, or marriage in same home

What relief can a PFA provide?

Safety:

- No abuse
- 100-yard stay away
- No contact
- Firearms
- DV evaluation



What relief can a PFA provide?

Ancillary:

- Child custody, visitation, support
- Financial support
- Exclusive use of home & personal property
- Care, custody, control of companion animals
- Return of legal documents



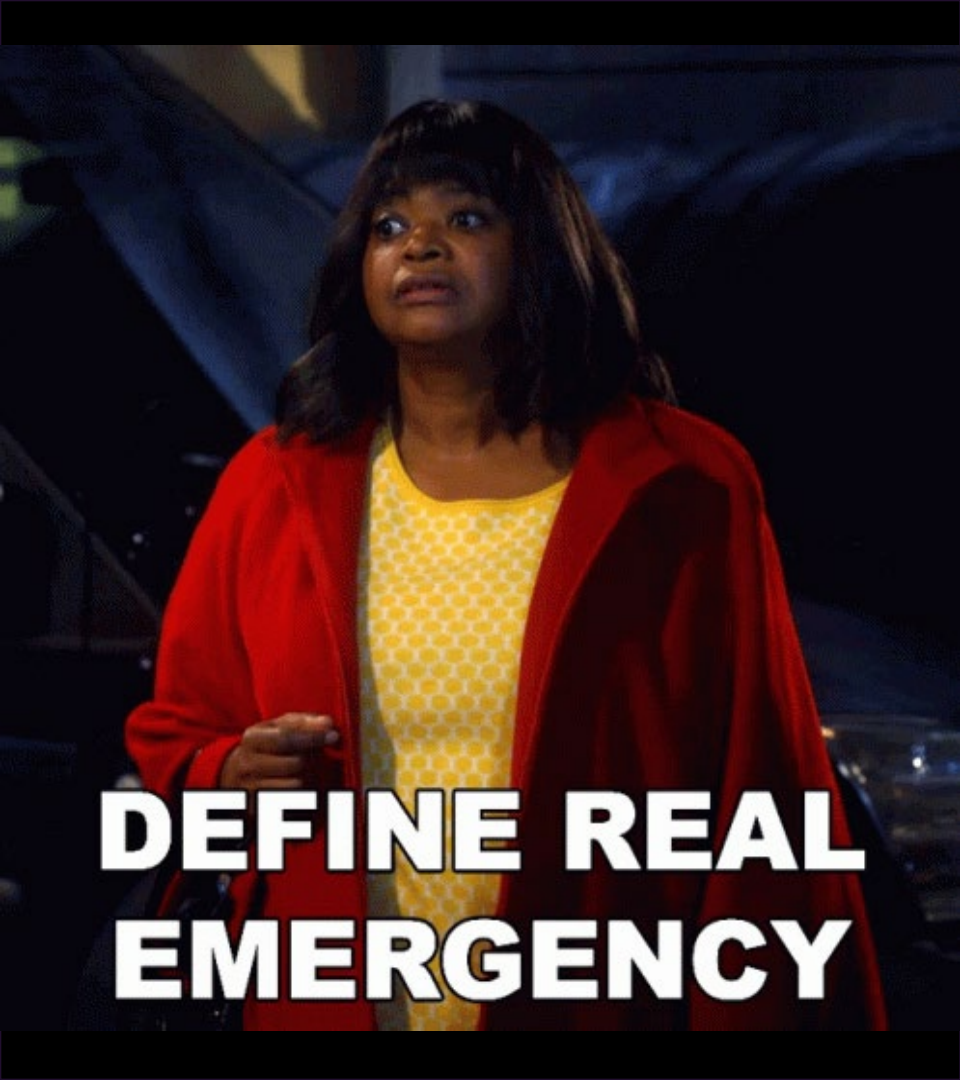
Where do you file for a PFA?

In-person at Family Court

OR

By email: FC_PFA@delaware.gov

Court hours: Monday-Friday 8:30-4:30



Emergency Ex Parte

**DEFINE REAL
EMERGENCY**

PFA Process



PFA Resources



Advocacy



Legal



**Courthouse
Escort**

What is a Sexual Violence Protection Order?



Who can file for an SVPO?

- **Adult* victims of nonconsensual sexual conduct**
 - *A person under the age of 18 who is 16 years of age or older may seek relief under this chapter without being required to seek relief by a guardian ad litem.
- **A person acting on behalf of a minor child or vulnerable adult**



Additional Eligibility Requirements

- Must not qualify for a PFA by relationship status
- Do not need to make a report to law enforcement
- Respondent must be over 18
- Most recent statements/conduct must have occurred within last year, unless special circumstances apply
 - Incarceration
 - 100+ mile distance
 - No-contact order



Proving the Need for SVPO

Burden of Proof

- Lies with the petitioner
- Standard of proof: Preponderance of the evidence (more likely than not)

All petitions(emergency/non-emergency) must show:

- Occurrence (including date) of non-consensual sexual conduct/penetration
- Specific statements/actions that cause reasonable fear of future harm

Emergency (ex-parte) petitions must also show:

- Respondent poses immediate and present danger

Where do you file for an SVPO?

County	NCC	Kent	Sussex
Courthouse	Leonard L. Williams Justice Center	Kent County Courthouse	Sussex County Courthouse
Address	500 N King St Wilmington 19801	414 Federal St Dover 19901	1 The Circle, Ste 2 Georgetown 19947
Phone	302-255-0800	302-735-1900	302-855-7055
Prothonotary Office	Suite 500 on Lower Level 1 (L1)	Room 140 (1st floor)	Room 214 (second floor)

Jurisdiction: where the petitioner lives, where the respondent lives, or where the incident occurred

Emergency Orders (Ex-Parte)

Timeline	Hearing same day or within 72 hours of filing Full hearing within 2 weeks, but may be extended for cause (no longer than 45 days)
Respondent Rights	Not notified or heard
Hearing Process	Judicial officer reviews petition, asks questions, and decides if they'll issue the order. If ordered, petitioner will get a copy that day and respondent will be served ASAP.
Outcomes	<ol style="list-style-type: none">1. Ex parte granted, hearing scheduled2. Ex parte not granted, hearing scheduled3. Ex parte not granted, case dismissed

Non-Emergency Orders

Timeline	Hearing within 15 days of filing (unless extended by the Court for good cause shown.)
Respondent Rights	To notice, to be heard, present evidence, and cross examine
Hearing Process	Judicial officer will review and ask both parties questions. Each side can speak, present evidence, and cross-examine witnesses. If an order is issued, both parties will receive a copy that day.
Outcomes	<ol style="list-style-type: none">1. Petition granted2. Petition denied; ex parte terminated

Emergency Orders

Non-Emergency Orders

Timeline	Hearing w/in 72 hours of filing Full hearing within 2 weeks	Hearing w/in 15 days of filing
Respondent Rights	Not notified or heard	To notice, to be heard, present evidence, and cross examine
Hearing Process	Judicial officer reviews, asks Qs, decides whether to issue the order. If ordered, petitioner receives copy that day; respondent is served ASAP.	Judicial officer reviews and questions both parties. Each side can present evidence and cross-examine witnesses. If an order is issued, both parties receive a copy that day.
Outcomes	<ol style="list-style-type: none">1. Ex parte granted, hearing scheduled2. Ex parte not granted, hearing scheduled3. Ex parte not granted, case dismissed	<ol style="list-style-type: none">1. Petition granted2. Petition denied; ex parte terminated

What relief can an SVPO provide?

- Require respondent to stay away from the petitioner as well as their residence, workplace, schools, etc.
 - Can include protections for petitioners' children
- Restrain respondent from where the petitioner may be
- Relinquishment of firearms/ammunition
- Order a drug, alcohol, or mental health assessment
- Any other reasonable relief necessary
- Monetary damages are not recoverable
- Orders can be in place for up to 3 years
- Violation of the order can result in criminal charges

SVPO Resources



**Violence Intervention
Program (VIP)**



**Police Victim
Services**



**YWCA
Sexual Assault
Response Center**

What is a Lethal Violence Protection Order?



LVPOs...

- ✗ Do NOT remove/harm the person in crisis
- ✗ Do NOT put anyone in jail
- ✗ Do NOT put anyone in handcuffs
- ✗ Do NOT create a criminal record
- ✓ Remove the firearm ONLY

For more (including videos!), visit:

<https://lvpo.decagv.org/>

Two ways to request LVPO:

1. A person in crisis or a loved one of a person in crisis can **petition the court directly** for a LVPO

OR

2. A person in crisis or a loved one of a person in crisis **calls the police and requests a LVPO**

What is the process for an LVPO?

If appropriate, the **firearms are temporarily removed** from the premises and **stored for safekeeping** at police headquarters

The **person is deemed “prohibited” and cannot legally purchase firearms** during the period of the order (one year)

Within 15 days of the removal, **a hearing is held.** Hearings are not open to the public and, if the crisis has passed, the firearm can be returned.

Where do you file for an LVPO?

Emergency petitions: can only be sought by law enforcement

Non-emergency options:
Superior Court in each county

LVPO Resources



**Superior
Court**



**Police
Agencies**



**Coalition for
a Safer DE**

PFA

SVPO

LVPO

Final Order Length	1 year, 2 years, or lifetime	Up to 3 years	1 year
Who Can File?	Adult victim of domestic violence, DFS on behalf of a minor, or DPS on behalf of impaired adult. Respondent/petitioner: intimate partners or family	Victims of sexual violence who are ineligible for PFA, but have reasonable fear of future harm. Respondent/petitioner: intimate partners or family	Emergency order: ONLY law enforcement Non-emergency order: family, intimate partners, and law enforcement
Court	Family	Superior	Superior
Relief offered	Stay away/no contact Relinquish firearms; prohibited from purchasing firearms Any other reasonable relief necessary	Stay away/no contact Relinquish firearms; prohibited from purchasing firearms Any other reasonable relief necessary	Relinquishment of firearms; Prohibition of purchasing firearms
Types of orders	Emergency (ex parte), expedited, non-emergency	Emergency (ex parte), non-emergency	Emergency (ex parte), non-emergency

PFA, LVPO, or SVPO?

A 24-year-old man threatened to kill his family and employees of the family business. He had a history of threatening employees and was previously convicted for a weapons offense. His mother knows he has access to firearms, and is worried for their safety.

PFA, LVPO, or SVPO?

Your client's (she/her) ex-husband has been calling her phone and leaving threatening messages. The messages have gotten more serious in nature, leading your client to believe that her ex has been stalking her. Your client's ex also mentions that he will come to her house while she's at work to kidnap her dog.

PFA, LVPO, or SVPO?

Your client, Dan, joined Hillel as soon as he started college. He was active in his temple youth group while in high school and wants to keep that connection to his faith and create a community around him. During his second semester at college he was sexually assaulted by another male student he met on an online dating site. That student has joined Hillel and continues to make advances and comments to Dan about hooking up again. Dan is terrified and wants to drop out of Hillel.

Wait!



**Not every
survivor
benefits from
all available
civil options**



Think of an
example when a
protective order
might not make
a client safer

**While safety planning,
consider:**

Which order is most appropriate?

**How and when might the Orders interact
with each other to provide more
comprehensive safety than individually?**

Questions about Protection Orders?



Erica Davis, DV Coordinator, Family Court

Erica.Davis@delaware.gov 302-255-0403

Lauren White, Legal/Medical Services Trainer, YWCA DE
Sexual Assault Response Center

Lwhite@ywcade.org, 302-332-1868

Katelyn P. Will, Esq., Staff Attorney, NCC Superior Court

Katelyn.Will@delaware.gov

Traci Murphy, Executive Director, Coalition for a Safer
Delaware

info@decagv.org