

Peace Orders and Protective Orders:
Maryland Rules and Requirements

I. WHAT ARE PEACE AND PROTECTIVE ORDERS AND HOW DO THEY DIFFER?

In Maryland, Peace Orders and Protective Orders are civil orders issued by a judge to prevent one person from committing certain acts against others. Whether you are issued a Peace Order or a Protective Order is based on the personal relationship between you and the alleged offender, and you cannot qualify for both orders in the same situation. Peace Orders apply to other relationships such as neighbors, co-workers, acquaintances, or even strangers.

Protective Orders apply to people in certain domestic relationships, such as: if you and the alleged offender are current or former spouses, if you have lived together in an intimate relationship for at least 90 days during the past year, if you are related by blood, marriage, or adoption, or if you have a child together. Additionally, courts may issue a Protective Order if you are filing the petition on behalf of a child or a vulnerable adult (one who cannot provide for his or her own daily needs).

Other differences of Peace and Protective Orders include:

- Timing of Respondent's Acts: Individuals must file a Peace Order petition no more than 30 days after the respondent committed the alleged act(s) against the petitioner, whereas a Protective Order petition may be filed any time, regardless of when the respondent committed the alleged act(s).
- Address of Petitioner: If the petitioner for a Peace Order alleges and the court finds that disclosure of petitioner's address would create future risk to petitioner, the court will strike petitioner's address from the petition and from all other court documents. The Protective Order Petition contains no such protection for the petitioner.
- Temporary Orders: Temporary *Ex Parte* Protective Orders under the Domestic Violence Statute provide more protection for petitioners than Temporary *Ex Parte* Peace Orders. While both Orders prohibit the respondent from entering the petitioner's residence, school, or workplace, a Temporary *Ex Parte* Protective Order enables courts (i) to order the respondent to vacate the petitioner's home if certain requirements are met; and (ii) to award the petitioner temporary custody of a minor child of the petitioner and the respondent.
- Duration: Under the Domestic Violence Statute, a Protective Order is effective for the period stated in the order, not to exceed 12 months, unless the judge extends the term of the order. Alternatively, a Peace Order is effective for the period stated in the order, not to exceed 6 months.

- Type of Relief: Peace Orders provide only the relief that is minimally necessary to protect petitioner, while a Protective Order provides a much broader range of protective measures. First, a Protective Order can require the respondent to surrender their firearms to law enforcement officers for the duration of the Order. A Peace Order contains no such firearms provision. Second, a Protective Order enables courts to order emergency family maintenance, temporary child custody and/or visitation, and prohibitions against the respondent's use of a jointly-owned residence or vehicle, while a Peace Order contains no such provisions.
- Filing Fees: The Peace Order Statute allows courts to order both parties to pay filing fees, while the court will only impose filing fees on the respondent in the case of a Protective Order.
- Modification or Extension of Orders: The Peace Order Act permits the District Court to modify and enforce a Peace Order, but the statute does not expressly authorize the District Court to extend the term of the order at its discretion. In contrast, the Domestic Violence Statute gives courts the power to extend the term of a Protective Order for 6 months, provided the petitioner proves good cause.
- Criminal Penalties: The Domestic Violence Statute and the Peace Order Act provide the same penalties for the respondent's first violation of the Order: the respondent shall be declared guilty of a misdemeanor and, upon conviction, be subject to a maximum \$1,000.00 fine, 90 day imprisonment, or both. However, the Peace Order Act does not provide enhanced penalties for the respondent's subsequent violations, whereas the Domestic Violence Article provides that the respondent will be subject to a maximum \$2,500.00 fine, 1 year imprisonment, or both for subsequent violations of a Protective Order. The Peace Order Act imposes criminal penalties on petitioners for providing false information on a Peace Order Petition (a maximum \$1,000.00 fine, 90 day imprisonment, or both), whereas the Domestic Violence Statute imposes no criminal penalties on petitioners under any circumstances.

II. HOW TO BE GRANTED A PEACE OR PROTECTIVE ORDER:

You cannot be issued a Protective Order without proving a good reason for the court to issue one. If you are seeking a Protective Order for yourself, you must show by **clear and convincing evidence** that you suffered abuse (defined as an act that caused serious bodily harm) OR an act that places you in fear of imminent bodily harm, criminal harassment, false imprisonment, criminal stalking, criminal trespassing, malicious destruction of property, assault, rape or sexual offense, or attempted rape or sexual offense.

If you are seeking a Protective Order for a child or vulnerable adult, you must prove by credible evidence that abuse, neglect or sexual abuse occurred to the child or vulnerable adult. Keep in mind that the Court does not have to wait until a child suffers a physical injury before

determining that there has been abuse or neglect. A Protective Order may be issued if you show that the child suffered mental injury.

With regard to Peace Orders, while individuals may file a Protective Order Petition in either District Court or Circuit Court, individuals may file a Peace Order Petition only in District Court. In order to be granted a Peace Order, the petitioner must prove by clear and convincing evidence that the respondent committed the alleged act and is likely to commit future acts against the petitioner. Mutual Peace Orders can be granted if both parties have filed for one and the court finds by clear and convincing evidence that each party has committed, and is likely to commit in the future, an act of abuse as described in the statute.

III. HOW CAN A PEACE ORDER OR PROTECTIVE ORDER HELP ME?

Peace Orders and Protective Orders provide security for you by preventing an offender from: coming near your home, place of employment or your child's school, threatening or committing abuse, contacting you or your children. Certain Protective Orders can also award you temporary custody of a child, temporary exclusive use and possession of your home, and even temporary financial support.

IV. HOW ANDALMAN & FLYNN REPRESENTS YOU IN THE PEACE OR PROTECTIVE ORDER PROCESS:

1. We will meet with you to evaluate your particular situation to determine which Order and course of action is best to keep you and your family safe.
2. We will assist you in completing the initial and any subsequent Petition(s) for Peace or Protective Order(s).
3. We will file all required forms to ensure that your Petition is filed in the appropriate court and is processed in a timely manner.
4. We will attend and zealously represent your interests in court proceedings.

*** If you have questions about domestic violence, family law and/or Peace and Protective Orders, please contact us at (301) 563-6685 and visit our website: www.andalmanflynn.com. You should always consult with an attorney to determine how the law applies to your particular situation.

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