

Basics

ORDERS OF PROTECTION

Filing

After you apply for an order of protection, you will be granted a temporary order of protection, until the scheduled hearing, usually within 20 days. The Crime Victim's Advocate Office can assist you in filing for free. You may retain a private attorney. The

A temporary order protection is a court-order designed to provide you and your family members with immediate protection from your assailant. In order to get a permanent order of protection you need to have a court hearing where your assailant has an opportunity to appear and tell their side. A temporary order of protection will protect you from the time you file for permanent order of protection until your hearing, which is normally scheduled within 20 days of your application. There is no cost to file a request for a TOP.

Filing for a TOP the paperwork for a temporary order of protection is available to Crime Victims Advocates office. It is also available via their website. The Advocates can help you fill out the form and answer any questions you may have.

A written Order of Protection is a written court order to protect you and your family members from violent and/or harassing behavior by your assailant. It may last for a specific period of time or remain in effect permanently. An order of Protection is a written court order from the court to the stalker or abuser that prohibits certain activity. If the abuser violates the order they could be sentenced to up to 93 days in jail and or a \$500 fine. An OP can prohibit the offender from any or all of the following from occurring to you or your family: hurting, threatening, harassing, annoying or contacting. It can order the offender to stay away from your home, work or other places that you frequently visit. It may also prevent the abuser from having any contact with your minor child



PDF OF TOP APPLICATION

ORDERS OF PROTECTION

frequently asked questions

1. What is a forensic rape examination?

A "forensic rape examination" is an examination provided to a sexual assault victim by a physician or medical personnel trained to gather evidence of a sexual assault in a manner suitable for use in a court of law.

2. What is the Forensic Rape Examination Payment Program (FREPP)?

FREPP provides direct payment to qualified healthcare providers for forensic rape examinations for victims who have an exam within 5 days of the crime and who choose NOT to report the crime immediately to law enforcement. Direct reimbursement from FREPP to providers of forensic examination services ensures that a sexual assault survivor will not pay for her/his own forensic examination. FREPP pays the cost of a sexual assault examination to a maximum of \$600.

3. What services are included in FREPP's definition of a "forensic rape examination"?

Covered costs include; Complete and customary sexual assault examination, Emergency room/facility charge, Physician/nurse examiner charge, STD and pregnancy prophylaxis, Blood and urine specimens for toxicology testing, Supplies, Laboratory testing, Pharmaceuticals, Mailing charges.

4. Must a victim have a forensic rape examination performed immediately?

A forensic exam must be performed within 5 days of the assault in order to obtain essential evidence.

5. Can a healthcare provider bill the victim for the remaining balance after FREPP pays?

No. A healthcare provider must accept FREPP's reimbursement rate as payment in full for covered services. The purpose of FREPP is to ensure that the victim not be held responsible for paying the cost of the forensic examination. The healthcare provider shall not submit any remaining balance after reimbursement by FREPP to the victim or commence civil actions against the victim to recover any balance due.

6. Can a healthcare provider bill the victim for services related to physical injuries?

Yes. If the victim suffered physical injuries due to the crime, the provider may bill the victim for that portion of the services.

7. Does a victim have to use his/her private healthcare insurance to pay for the forensic rape examination?

No. The patient may decline to use his/her private insurance or any other payment sources including Medicaid or Medicare.

8. If a victim used his/her insurance to pay for the cost of the exam, but insurance did not cover 100% of the bill, can the healthcare provider charge FREPP for the remaining balance?

Yes. Once private health care insurance is assigned, the hospital or healthcare provider may bill FREPP for any balance due. The balance due may not exceed the \$600 maximum allowed.

9. What types of healthcare providers are covered by FREPP?

- Any State of Montana accredited hospital
- A licensed provider in the State of Montana
- A Sexual Assault Nurse Examiner (SANE) program

10. If a private physician conducted a forensic rape examination in his/her office and did not use a forensic rape examination kit, can the physician still be reimbursed?

No. A forensic rape examination kit must be used.

11. Is it necessary to file a law enforcement report to qualify for coverage through FREPP?

No. FREPP was created for sexual assault victims who choose not to report the crime to law enforcement at the time of the sexual assault examination.

12. Will a victim be required to pursue prosecution in order to secure payment for the forensic rape examination?

No. FREPP does not require a sexual assault victim to pursue prosecution.

13. Once a forensic rape examination has been completed, what must be done with the evidence collected?

Forensic rape examination kits and any other evidence collected must be put into a box and mailed to FREPP.

hope cards

allow someone who has been granted an
Order of Protection in one jurisdiction
to easily prove it in another jurisdiction.

These small, durable, wallet sized cards are intended as a more convenient way to keep relevant information about a person's permanent order of protection with them at all times. While they are not a substitute for an order of protection, the card lists relevant information related to a valid permanent order. They let law enforcement know that there is a valid, permanent Order in place and in the case of potential violation, can allow an officer to refer to the card for more information.

The Hope Cards issued by the state of Montana contain information about the person restrained under the order (called the respondent), and any children or other individuals who are protected under the order: the respondent's photo, name, birth date, sex, race, eye and hair color, height, weight and any distinguishing features like scars or tattoos the names and birth dates of any children or other individuals who are also protected under the order. The back of the card provides information about the person named in the order, and any children or other individuals who are also protected under the order: the protected person's name, birth date, sex, race and height, the case number listed on the permanent Order of Protection, the issuing court and county, the date it was issued and any expiration date.

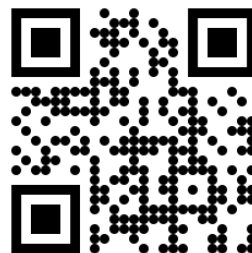
Hope Card Administrator
Office of Victim Services
Department of Justice
P.O. Box 201410
Helena, MT 59620-1410v

Hope Cards are issued by the Crow Tribal Court, the Confederated Salish and Kootenai Tribal Court and the state of Montana. While the cards differ slightly, they must be recognized by law enforcement officers throughout the state.

*These cards are not issued for temporary orders of protections.

Cards are also available for any children or other individuals covered by the order. You may request more than one card per individual if, for example, you wish to provide one to a child's school and another to the child's after-school care program. When filing, you will need to refer to your order of protection. Have a copy on hand. Forms can be sent in via mail or submitted online. You should receive your card(s) within ten business days of submission of paperwork. See the State of Montana Department of Justice website for specific instruction on how to file by mail or online.

dojmt.gov
HopeCard@mt.gov



GLOSSARY

legal terms

Affidavit - A written statement you swear is true before someone who can legally administer an oath to you. The person who can administer the oath is usually a Notary Public and you must sign your document in front of this person.

Agreement - An oral or written promise to do something.

Answer - The respondent's written response to the claims made in a Petition.

Appeal - A request to a higher court for a different judgment.

Asset - Something of value that belongs to you whether you have it with you or not.

Certificate or Affidavit of Service - a form filed with the clerk's office stating that the other person in your case received the papers filed in the case.

Child Support - Court-ordered money paid by one parent to another for the care of a minor child.

Court Clerk - A person whose duty it is maintain the records of the court, to assist in preparing court reports, and to basically perform the duties of the court for the judges as well as assisting the public.

Court Rules - A set of procedures of the court that have to be followed by both the people who file cases and the attorneys who represent them.

Debt - Money you owe or a claim someone can make that you owe them money.

Default Judgment - When a person who has been served with documents fails to answer, either the clerk or the court may enter a judgment by default to the other person.

Discovery - a pretrial proceeding where a person has the chance to learn information that is known by the other person in the case or other witnesses.

Dissolution - More commonly known as divorce, a dissolution is when a marriage is dissolved through a court action.

Domestic Violence - When one domestic partner or family member uses physical violence, threats, intimidation, sexual abuse or economic abuse to control the behavior of another domestic partner or family member.

Evidence - any presented proof which might come from witnesses, testimony, records and documents.

Filing Fee or Appearance Fee - This is a fee that the Clerk of Court charges for you (or your attorney) to file your case or to respond to your case. The fees are different for filing different types of cases or documents. If you have your fees "waived" (see below) you won't have to pay these fees.

Fee Waiver - If you can establish that you meet the income guidelines, you may not have to pay all or part of the court fees such as the filing fee.

Financial Disclosure - a statement showing the details of income and expenses as well as assets and debts.

Hearing - any proceeding before a judge or magistrate without a jury where you can present evidence and argument. Hearings are usually used to decide some issue of fact or law.

Judge - A public official who hears and decides cases brought before a court of law.

Jurisdiction - Authority of a court to hear certain cases.

1Lawyer - a person authorized to practice law, conduct lawsuits or give legal advice. In Montana, only lawyers licensed in Montana are authorized by law to give legal advice.

Mediation - a method of solving problems without going to court.

Motion - A formal request to the court. A motion is in writing sometimes and other times it is a verbal request.

Notice of Hearing - An official notice telling the people involved in the case when a hearing is scheduled. You should never ignore a Notice of Hearing.

Order - Written decision of a judge.

Order of Protection - A court order that tries to protect the victim by keeping the abuser away from the victim.

Parenting Plan - a plan that states when and where each parent will be with and responsible for each child. It also includes who is responsible for decision making and provides for the financial care of the child.

Petition - A formal written request to the court (requesting the court to do something.) **Petitioner** - The person who starts the divorce.

Pleadings - Legal documents filed with the court.

Pro Se - A person who represents himself in court alone without the help of a lawyer.

Respondent - The person a divorce is being brought against.

Response - An answer to a legal document. In family law, it is a answer to the Petition for Dissolution.

Service of Process - The legal methods of delivering papers to the other person and proving to the court that the papers were received (Certificate or Affidavit of Service.)

Settlement - an oral or written promise to resolve a problem, especially before going to court.

Spousal Support - Payment for support of an ex-spouse (or a spouse while the divorce is pending) ordered by the court. More commonly known as alimony.

Subpoena - A written legal notice requiring a person to appear in court and give testimony or produce documents.

Summons - A notice to the person named that an action has been filed against that person.

Testimony - A solemn statement made under oath.

Venue - The specific county, city, or geographical area over which a court has authority.

Witness - One who can either give a firsthand account of something seen, heard or experienced, or who is qualified to express an expert legal opinion or facts about the case.