

OBTAINING RESTRAINING ORDERS FOR HT SURVIVORS

Overview

U.S. Department of Justice, Office for Victims of Crime: “Victims might want a protection or restraining order that directs the trafficker to stay away from the victim and return the victim’s possessions. These orders may be included in any criminal proceeding, but victims may need to seek a civil order while the case is pending or when there is no criminal case.

Victims, particularly those who are related to their traffickers, may need assistance with separation, divorce, child custody and support, guardianship, or adoption.”¹

Step-by-Step

General Steps

- The survivor will need to file a petition for a temporary restraining order (TRO) with the court if she is not a minor.
- If the survivor is a minor, then a parent, a guardian, or a guardian ad litem may help them file the petition.
- The petition must be filed in the county where the abuser lives or in the county where the abuse occurred. This information should be available on the site of your local courthouse.
- The survivor may need to bring some form of picture ID to court.
- The survivor should ideally also bring information about the abuser. (e.g. addresses of residence/employment, phone numbers, description of abuser’s car and physical appearance, etc.)
- To get an emergency restraining order outside of court hours, you can contact the police (unless your client does not feel comfortable with this), who can contact a judge to get a TRO.
- A court clerk can also help a survivor fill out restraining order forms.
- In filling out the forms/petition for a TRO, the survivor should include detailed descriptions of the abuse.
- The survivor should not sign the form until she has shown it to the court clerk/notary/judge.
- A judge will review the survivor’s petition for a restraining order.

¹ U.S. Department of Justice, Office of Justice Programs, Office for Victims of Crime, (December 2015)
https://ovc.ncjrs.gov/humantrafficking/Public_Awareness_Folder/Fact_Sheet/HT_Legal_Rights_Needs_fact_sheet-508.pdf



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- If the judge grants the TRO, the abuser must be served with the TRO, which will include the date for the full hearing.
- The survivor should keep a copy of the TRO with them at all times.
- If the judge grants the TRO, the order will generally be in effect until there is a full hearing on the matter. At this time, the judge may grant a final restraining order.
- At the hearing, the survivor will have the opportunity to present evidence, witnesses, and testimony as to the abuser's actions.
- If the survivor does not attend the hearing, the TRO will expire, and she may have to start the process over.
- If the survivor finds out that she cannot attend the hearing, she must contact the court clerk right away to request a later court date and a renewal of her TRO.
- If the abuser does not attend the hearing, the court may enter a "default judgment" against them and give the survivor a final restraining order.^{2,3}

Common Concerns/Special Considerations for Survivors

- Survivors may fear interactions with law enforcement.
- Survivors may fear appearing in court with their perpetrators.
- Remember not to put your client's phone number or current address on paperwork for restraining orders.
- Remember that filling out the paperwork, and especially taking your client's declaration, will trigger traumatic memories for your client.

Tips for Writing a Restraining Order Statement

1. Go to your courthouse or courthouse website to find forms.
2. For the declaration/statement portion, start with a paragraph that describes the client's relationship to the abuser.
3. In the second paragraph, describe the most recent incidents of abusive, violent, or threatening behavior by the perpetrator. Make sure that the description is detailed, includes dates, and shows that your client was afraid.

² How to Get a Restraining Order, Stephanie Rabiner
https://blogs.findlaw.com/law_and_life/2011/05/how-to-get-a-restraining-order.html

³ Know the Laws - By State
<https://www.womenslaw.org/laws/restraining-orders>



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4. In the third paragraph, describe all prior incidents of abusive, violent, or threatening behavior in the past by the perpetrator.
5. The last sentence of the declaration should state that your client respectfully requests that the judge grant her request because she is afraid for her safety or life.
6. Attach any supporting documents.⁴

Resources

For more information on writing a statement for a restraining order, see:

Declaration in Support of Ex Parte Application for Civil Restraining Orders

http://www.sccourt.org/forms_and_filing/forms/CV-5014.pdf

For more specific information on restraining orders in your state, see the following website:

Know the Laws - By State

<https://www.womenslaw.org/laws/general/restraining-orders>

For more tips on drafting declarations for restraining orders, see the following website:

Women's Justice Center, Marie De Santis (2000)

http://www.justicewomen.com/help_family_law_4.html

To view sample restraining order forms, see the following links (restraining order request forms for California):

Domestic Violence Temporary Restraining Order

<https://www.courts.ca.gov/documents/dv110.pdf>

Request for Civil Harassment Restraining Order

<https://www.courts.ca.gov/documents/ch100.pdf>

⁴ Solutions Center Shelter & Support Services, Inc

<http://www.solutionsfdl.com/wp-content/uploads/2013/12/Tips-for-Writing-a-Statement.pdf>

