

For how long is a court order valid?

Protective orders and restraining orders under the Violence Protection Act are issued for a limited period and are therefore only valid for a specific period of time, which is named in the protective order. They usually apply for six months. They can be extended by way of application.

Is a court hearing required?

If the situation is not clear to the court, the court invites both concerned persons to a personal hearing. Furthermore, the case can involve a verbal hearing if the defendant has objected to the protective order or has applied for a verbal hearing.

The aim of a hearing is to listen to both sides to see if the protective order is really necessary. That is why the applicant has to present and give evidence again in court.

Family Court proceedings are not open to the public. On request, the court can agree to a court accompaniment in the form of a person of trust or a female witness accompaniment person. Required witnesses, named by you, can be summoned to appear in court.

Civil Court proceedings, in comparison, are open to the public. The Civil Court does not summon witnesses. The concerned parties have to bring them to the court hearing themselves if this is required.

It is a good idea to prepare the main hearing well. You can seek information from a solicitor or at a counselling centre.

What to do if the protective order is violated?

A violation is a criminal act. You can call the police and file charges. It therefore makes sense to always carry a copy of the protective order around with you. You can also apply to the local court (legal department) for a fine to be charged or, if required, an arrest. This is also a civil court application and is subject to a charge and could possibly result in court proceedings.

Consultation and support free of charge

is provided in the event of applications under the Violence Prevention Act at the following places:

Legal advice can be obtained from:

Practicing solicitors. Costs arise for their fees. If you have a very low income or no income at all, you can apply for a counselling services certificate [*Beratungshilfeschein*] from the court's legal department. You can use this to receive counselling from a solicitor of your choice. The Weißer Ring association can also take over the costs for legal counselling.

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Kooperations-
und Interventionskonzept
gegen häusliche Gewalt
des Landes Schleswig-Holstein

Cooperation
and intervention concept
against domestic violence
of the federal state of Schleswig-Holstein

Practical tips for applications under the Violence Protection Act

If you need personal protection against threats, violence or stalking, a protective order and/or restraining order can be issued upon application. This usually involves a hearing under the Violence Prevention Act at the court of your place of residence. You appear as the applicant and the application is filed against the person who has threatened, stalked or injured you. In expedited proceedings the court can pass a decision on the same day as when the application is filed, without previously requesting the defendant to appear for a hearing.

The following information might be of help to see that your application is filed quickly and successfully.

As a way of preparing yourself, we strongly recommend informing yourself at one of the counselling offices listed overleaf.

What can I apply for?

- Eviction from the apartment
- Restraining order (prohibiting the person from entering the apartment, house or other locations where you reside on a regular basis)
- Ban on contact (prohibiting the person from contacting you personally, by telephone, SMS, e-mail or by way of letter)
- Ban on approach (prohibiting the person from approaching you, your apartment, your place of work, nursery school or other places where you reside on a regular basis)

Who can file the application?

You, as the person concerned, may file the application yourself; there is no obligation to be represented by a solicitor. However if you want, you can file the application via a solicitor or with the help of a counselling centre.

Where do I file the application?

At the **legal department** of your local court.

The legal department employs a legal officer from Monday to Friday, who is there to accept your application and to be of assistance to you. Please be aware that you might have to expect a waiting time.

Who decides about your application?

The Family Court is responsible if the applicant and defendant have shared a common household in the last six months previous to filing the application. Otherwise the Civil Court is responsible.

When should I file the application?

With regards to expedite proceedings, it is important to file the application as promptly, or as close to the actual events as possible as it is otherwise not deemed urgent. Prompt means that - depending on what has happened – you should not wait longer than 14 days, for example. Make use of the time, for example, defined in the police-issued eviction order. Don't wait to go to court until the end of the period of the eviction order so as to ensure that the protective order becomes

effective before the eviction order expires!

What do I have to bring with me?

Evidence: Bring everything that provides evidence for the information in your application: e.g. letters, text messages, medical reports, photos of injuries, written statements from witnesses. If the police have intervened, include the case number, or, if available the eviction order. Contact the relevant officer for 'Domestic Violence' at your local police station.

Delivery address: An order cannot be issued until the address of the molester is known, as it cannot otherwise be delivered. This can also be the address of his employer or another person with whom he resides. If the address is absolutely unknown, the application might possibly not be accepted.

Documents: Valid identity card, rental agreement or entry in the land registry for an application for restraining order with regard to the place of residence. If you would like to apply for legal aid, you must bring documents with details of your income (e.g. salary, family allowance, pension) and also of your expenses (rent, insurances, related costs, loans, etc.). A full social security assessment [*Hartz-IV-Bescheid*] already includes all the necessary information.

What should the application include?

A precise and detailed description of what has happened is particularly important for the court to make an assessment. Be prepared that you will have to describe what you have experienced personally. Make sure you point out if children are involved. If events have taken place more than 14 days ago e.g. physical assault or other significant assaults, they must also be mentioned. If you apply for expedite proceedings, an affidavit must be added to the application, confirming that what you say is the truth. Consider carefully what you want to apply for, for example, at which concrete location you require protection and what exactly the defendant should refrain from doing. As every case is different, precise phrasing is helpful.

Orders to protect any joint biological children concerned cannot be issued under the violence protection act. If protective measures for the children are necessary, they must be applied for separately. In the event that your children are at risk, please contact the youth welfare office [*Jugendamt*] or a counselling centre.

What kind of costs can I expect?

As it is a civil law application procedure, costs will be incurred. The amount depends on the individual case at hand. If you have no personal income at all or very little income, it is important that you apply for legal aid together with the application for the protective order.

How do I find out about the result?

Ask your legal officer how to find out about the judge's decision.

Sometimes it's worth staying to wait for the result or in the event that there are any further questions. You can also agree to phone at a specific time. The decision is always sent to you in writing, however delays can be incurred in the mail. You can also pick it up personally.

When does the protective order come into force?

The protective order is generally not valid until it has been delivered to the defendant; therefore as soon as he is informed about what he must now refrain from doing. However, if the order is issued via expedite proceedings without an oral hearing, it comes into force as soon as it is handed over at the office of the court for notification of the defendant. In expedite proceedings the court also issues delivery of the order to the defendant by a bailiff of the court.

In **family court** proceedings, delivery is handled 'automatically' by the court.

In **civil law** proceedings, an application is required. If you do not apply for delivery here, you are responsible, as applicant, for delivery within one month. Delivery by a bailiff of the court costs € 15 and must be paid in advance. If you receive legal aid, no costs are incurred. In Family Court expedite proceedings, the court may also announce that enforcement of the protective order applies even before delivery has been made to the defendant.