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Claremont Branch Office

24 Opera House Square, Suite 206
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1-800-562-3994 * (603) 542-8795

Concord Branch Office

117 North State Street
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1-800-921-1115 * (603) 223-9750

Littleton Branch Office

271 Main Street
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1-800-548-1886 * (603) 444-8000

Manchester Branch Office

1361 Elm Street, Suite 307
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1-800-562-3174 * (603) 668-2900

Nashua Branch Office

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1-800-517-0577 * (603) 598-3800

Portsmouth Branch Office

154 High Street
Portsmouth, NH 03802

1-800-334-3135 * (603) 431-7411

Senior Citizens Law Project Advice Line

**1-888-353-9944 or
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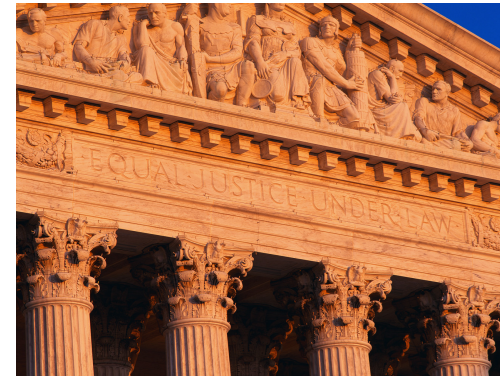
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It Helps to Know the Law.....

It is against the law to abuse another person



DOMESTIC VIOLENCE and STALKING

A Public Education Pamphlet prepared by
NEW HAMPSHIRE LEGAL ASSISTANCE



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The Law: Domestic Violence RSA 173-B

Protective Restraining Orders (PROs)

IT IS AGAINST THE LAW for your spouse, partner, family or household member to:

- Assault or attempt to injure you or your children or your property (RSA 631:1 through 631:3);
- Threaten you so that you fear for your physical safety or the safety of your children (RSA 631:4);
- Force sexual contact or relations on you against your will (RSA 632-A:2 through 632-A:5);
- Enter your residence or home against your will if you are living separately (RSA 635:2);
- Kidnap or interfere with your freedom against your will (RSA 633:1 and 633:2);
- Destroy or threaten to destroy your property, including pets (RSA 634:1, 2, RSA 637:2);
- Follow you around or act in a way that would make a reasonable person afraid (RSA 633:3-a).

The law considers all these actions to be domestic violence. If someone has done any of these things to you, you can ask the police for help. You can also ask the courts to order the person abusing you to stay away from you and to stop abusing you. The police can also file separate criminal charges against this person.

New Hampshire law RSA 173-B protects adults against domestic violence committed by any family or household member, your husband or wife, your ex-husband or ex-wife, your partner or ex-partner, or someone you are dating or have dated.

Minors (teens, ‘tweens, and younger) can also ask the court for restraining orders against persons who they are currently dating, or have been dating in the past. This includes romantic relationships, whether sexual or not.

To use this law:

- ***you do not*** have to be married to or even have lived with the person who abused you
- ***you do not*** have to file for a divorce
- ***you do not*** need a lawyer
- ***you do not*** have to pay any court costs
- ***you do not*** have to pay any sheriff’s fees

Language

If English is your second language or you don’t speak any English, you have a right to request an interpreter to assist you with the police and in any court proceedings. Make sure to let the police and/or the court know that you need an interpreter to help you.

Domestic Violence Advocacy Project

If you cannot afford a lawyer you may call
New Hampshire Legal Assistance
1-800-517-0577.

You should also contact a domestic violence crisis center
in your area. For the nearest office call
1-800-852-3388.

The crisis center may be able to refer you to the
Domestic Violence Emergency (DOVE) Project
of the New Hampshire Bar Association.

This brochure should be used for information
only and should not be considered legal advice.
If you need legal advice, you should always
speak to a lawyer.

Enforcing Restraining Orders from Other States

If you have a restraining order from another state, you can protect yourself by going to any Family Division Court or District Court in New Hampshire to file a copy of this order. The clerk will treat this protective order the same as a New Hampshire protective order, and will make a copy of the order available to the police.

If you call to report you have been abused, followed, threatened or intimidated, *be sure to tell the police you have a restraining order from another state.*

Your New Hampshire order should be enforceable in other states as well. Carry any protective order that you have with you at all times.

Law Enforcement's Duties Toward Victims of Domestic Violence

Peace officers are obligated to use all means within reason to prevent further abuse of domestic violence victims. By law, they must give the victim immediate and written notice of the rights, remedies, and services available to victims of domestic violence.

The written notice shall include the following or similar statement:

"If you are the victim of domestic violence and you believe that law enforcement protection is needed for your physical safety, you have the right to request that the officer assist in providing for your safety including asking for an emergency telephonic order for protection. You may also request that the officer assist you in obtaining from your home toiletries, medication, clothing, business equipment, and any other items as determined by the court, and in locating and taking you to a local safe place including, but not limited to, a crisis center, a family member's, a friend's, or a similar place of safety. If you are in need of medical treatment you have the right to request that the officer assist you in obtaining an ambulance. You may request a copy of the report filed by the peace officer at no cost from the law enforcement department."

Where to Get Protective Restraining Orders

Go to a court that can properly help you. This will most often be a Family Court, but may be a District Court if there is no Family Court in your county. You can file in a court where either you or your abuser lives. If you have questions about where to file for a protective order, contact your local police.

Here is a brief listing of current Family Division courts where you may get a protective restraining order. A complete updated list may be found on the NH Court website at: <http://www.courts.state.nh.us/courtlocations/index.htm#family>.

FAMILY DIVISION COURTS (Locations):

- **Belknap (Laconia)**
- **Carroll (Conway, Ossipee)**
- **Coos (Berlin, Colebrook, Lancaster)**
- **Grafton (Lebanon, Littleton, Haverhill, Plymouth)**
- **Hillsborough (Northern part only) (Goffstown, Manchester)**
- **Merrimack (Concord, Franklin, Henniker, Hooksett)**
- **Rockingham (Brentwood, Derry, Portsmouth, Salem)**
- **Strafford (Dover, Rochester at Strafford County Complex)**
- **Sullivan (Newport, Claremont)**

In southern Hillsborough and Cheshire counties, you should file in the District Court of the town in which either you or the abuser lives; or if there is no District Court in that town, you may file in the **Superior Court** in which either you or the abuser lives. If you have left your home and are living in a different place to escape abuse, you can go to the court closest to your temporary home. The court will not tell anyone your new address if you ask them not to.

How to get Protective Restraining Orders

Ask the court clerk for a **Domestic Violence Petition**. Simply write down, as clearly and with as much detail as possible:

- what happened to you;
- the date, time, and location where it happened;
- the important facts about the abuse;
- additional facts of any other past or present abuse by this person.

If you need extra paper to write on, ask the clerk. You will have to swear under oath that what you have written is true.

When you need immediate protection: Emergency Protective Orders

If you are in danger and need *immediate* protection, ask for *emergency (ex-parte)* orders. The clerk will take the papers directly to a judge. If you get to see the judge, tell him or her simply and honestly what has happened to you and why you believe you are in danger. If the judge finds that you are in danger, he or she can issue **temporary protective orders**, right then and there. These orders will direct the abuser not to abuse you and not to enter your residence, workplace or school.

The judge can also issue emergency orders that:

- grant you temporary custody of your children , and
- order the abuser to turn over any guns or other deadly weapons he/she could use to harm you to a peace officer.

You will get a copy of your protective restraining order, whether temporary (emergency) or not, from the clerk of the court. **KEEP THIS ORDER WITH YOU AT ALL TIMES.**

If You Need an Emergency Protective Order and the Court is Closed

If you are in immediate danger of domestic abuse and no court is open, you can get an emergency protective order by contacting the nearest police department. A police officer can help you fill out the proper form and reach a judge by telephone.

Fill out the form using as much detail as possible. Be specific about dates, times, locations, and incidences of abuse. The police officer will read the judge what you have written. If the judge believes you are in immediate danger, he/she can issue an emergency protective order over the phone. These orders are only valid through the next business (court) day. You must apply for new temporary emergency orders at your local court.

WHAT HAPPENS NEXT?

Temporary or Emergency Protective Orders

First, a copy of your temporary protective order will be sent to the Department of Safety by computer. The State Police must make the protective order available to your local police department and sheriff. The local police must promptly serve your abuser with a copy of the temporary or emergency protective order. There is no charge for this service. These orders are in effect anywhere in New Hampshire and should be enforceable in other states too.

The Law: Criminal Charges for Domestic Violence and Stalking

In addition to getting protective orders, you can also ask the police to charge your abuser or stalker with one or more crimes.

If the police have good cause to believe that you have been abused *within the past twelve hours* or that a restraining order has been violated, they can immediately arrest the abuser and file criminal charges against him/her. *If it has been more than twelve hours, the police must get a warrant to arrest the abuser.*

In any case, if you have been abused, you can go to the police and file a *criminal complaint* against your attacker. Call your local police department to get a complaint form.

In the complaint form, write down what happened to you and the law that you believe was broken. Once the form is filled out, you must swear to it before a Justice of the Peace. Once the complaint is filed with the police, your abuser may be arrested.

If your abuser is arrested, keep in mind that most people are released from jail soon after their arrest. So, don't expect the abuser to stay in jail until the trial. If you fear the abuser might come after you when released, you can ask for a *bail condition* that orders that the abuser stay away from you. If the bail condition is broken (the abuser does not stay away from you), contact the police. They may be able to send the abuser back to jail.

Once a criminal complaint has been filed by you or the police, the police or prosecutor will bring the charges against the abuser. It is no longer your complaint and you cannot withdraw it. You may be subpoenaed to testify.

In order to prosecute the abuser, you may have to testify under oath in open court about what happened during the abuse incident in your complaint. If you have been threatened or abused at other times by this individual, *it is very important to be sure to tell the police or the prosecutor about those incidents before trial.*

The Law: Stalking NH RSA 633:3-a

IT IS AGAINST THE LAW for someone:

- To follow you around or show up at your home, work, school, or other place where you are, making you afraid for your own or your family's safety. (*This has to happen more than once, unless a protective restraining order or bail conditions are in place, and the behavior would make a "reasonable person" afraid.*)
- To follow you around *even once*, or show up at your home, work or other place *described in any protective restraining order or bail order you have against him/her*.
- To threaten you or your family with death or bodily injury, or to injure your family pet(s); or
- To damage your residence or property or your family's residence or property; or
- To place objects on your property or your family's property.

If you think someone is doing any of these things to you, *call the police right away*. The police can arrest the person responsible for one of these acts if the officer has probable cause to believe they happened within the past twelve hours. The police can make an arrest even if they did not see the person follow, threaten or intimidate you. If you have protective orders already in place, the police *must* arrest him or her.

If you are being stalked, you can get a protective restraining order under the same procedures as victims of domestic violence. You do not have to have had any kind of relationship with the stalker to get protection. You should go to the **District or Superior Court** in either your county, or the county where the stalker lives. Follow the other steps outlined in this brochure for the domestic violence petition, but let the clerk know you would like to file a civil petition for protective orders from **stalking**.

In a civil petition for stalking, just as in the domestic violence petition, provide as much detail as possible about the dates, times, and locations the stalking has occurred. Describe each stalking incident in detail, especially any particularly disturbing actions and behaviors of the stalker. If you feel that you are in immediate danger, tell the clerk and ask for emergency orders. Be sure to include any previous or current history of contacts with the stalker or episodes of abuse in the petition.

Hearing on Your Domestic Violence Petition: The Final Hearing

A full, final hearing will be held on your domestic violence petition within 30 days of when you file it or within 10 days of the date the petition is served on your abuser, whichever is later. You will receive a hearing date with the paperwork included with your temporary order. However, the abuser may also ask for an earlier hearing within 3 to 5 business days of when he or she makes the request, which you must attend. The court will send you notice of the date, time and place of the new hearing date. In any case, you must attend the final hearing in order to have the temporary protective orders made final.

You have the right to bring a lawyer to represent you at the hearing. It is a good idea to talk to a lawyer if you think custody or child support will be disputed, or if you have been severely injured or expect an injury you received to last a long time.

If you cannot afford a lawyer, you should contact a domestic violence crisis center in your area that may be able to refer you to a free lawyer through the **Domestic Violence Emergency (DOVE) Project of the New Hampshire Bar Association**. You can find out which domestic violence program is nearest to you by calling **1-800-852-3388**. You may also contact **New Hampshire Legal Assistance at 1-800-517-0577** to find out whether you are eligible for free legal representation through our **Domestic Violence Advocacy Project**.

Testifying at the Final Hearing

At the final hearing, you will have to testify before the judge about what happened and why you want the final restraining order. Tell the judge about what you wrote down in your petition, if you have a history of being abused by your attacker, or if he or she has abused any other member of your family.

Bring witnesses, photographs of your injuries, medical and/or police reports if you have them. The judge will base a decision on all the facts and evidence presented.

Other things to be sure and tell the Judge:

- If you have children in common with the abusive person, tell the judge whether you want to have them continue living with you and whether you want child or other financial support.
- If you own or rent your residence with the abusive person, tell the judge if you want to continue living there and, if needed, ask the judge to order the abusive person to help you pay the rent or mortgage.
- If you need a car, ask for use of that car.
- If you lost money or have injury-related medical bills as a direct result of the attack, ask to be reimbursed for those expenses.

You should also know that your abuser will probably be at the hearing and that he/she or his/her attorney will have an opportunity to ask you questions.

Final Orders

After the final hearing, if the judge finds that you were abused, the court will issue **final orders**. If the judge finds abuse, he or she must order the abuser to hand over all firearms in his or her possession to law enforcement. In addition, you can ask the court to issue the following orders as part of the final orders:

- Continue to restrain the abuser from abusing or contacting you;
- Grant you temporary custody of the children;
- Order the abuser to pay you child support;
- Order the abuser to cover the children and you on his/her health insurance policy (if legally responsible to do so);
- Order visitation in such a way that will protect the safety of you and the children;
- Grant you use of any jointly-owned property including your residence, household furniture and you car;
- Order the abuser to pay your out-of-pocket expenses resulting from the attack, such as hospital, doctor or dentist bills, lost wages, taxi fares or babysitting costs, moving or shelter expenses, and legal fees;
- Restrain the abuser from intimidating or threatening you, your relatives (whether or not they live with you) or your household members;
- Direct the abuser to attend counseling, anger management or batterers' intervention programs.

It is very important to ask the Court for these things during your testimony because the Court may not issue these orders automatically. *These orders are effective for one year unless otherwise stated.* At the end of the year, you may go back to court and ask the judge to extend the protective orders if you still fear possible abuse. You should do this at least ten days before the orders expire. Be prepared to present evidence of a continued threat to your personal safety when asking the court to renew your protective order.

Violation of Orders

Once a protective order is in effect against the abuser, it is a crime for the abuser to violate the order. If the abuser *knowingly* violates a protective order in any way, it is a class A misdemeanor crime. You should report any violations to the police. The police will decide whether to arrest and prosecute him/her. Regardless of what the police do, if you feel there is a violation of the order, you can also take the abuser back to court by filing a motion for contempt of the order. A contempt hearing must be held within 14 days. If the abuser is found in contempt, he/she may be fined or put in jail.

Emergency Shelter, Assistance and Safety

It is very important to plan for your safety. If you need to remove yourself and your children from danger, help is available. There are domestic violence programs located throughout New Hampshire that provide shelter, safety planning and support for abused persons and their families. To get in touch with these groups you can call 1-800-852-3388, 24 hours a day. This is a confidential, free call.

These programs are there to help you even if you have decided to remain in your relationship with your abusive partner. They have advocates trained to:

- Aid you with shelter;
- Provide counseling and safety planning;
- Explain legal procedures to you; and
- Accompany you to court, the hospital or to get public assistance.

Please note that these advocates are not lawyers. In certain circumstances they may be able to refer you to a lawyer through the **Domestic Violence Emergency (DOVE) Project of the New Hampshire Bar Association** or the **Domestic Violence Advocacy Project of New Hampshire Legal Assistance**. DOVE and NHLA provide free legal representation to low-income individuals at final domestic violence hearings.