

RESTRAINING ORDER INFORMATION

Q: Explain how to get a Restraining Order?

If you are not in immediate danger but believe yourself to be in need of protection from harassment or stalking, you can apply for a restraining order. Restraining Orders are issued by the Magistrate Court.

You should contact the Magistrate's office to find out the correct jurisdiction for the Restraining Order, the jurisdiction is based on the area in which the offender lives. Magistrates issue Restraining Orders that deal with cases of harassment and stalking. However, if you are uncertain whether or not your situation is "domestic" (for instance, a boyfriend-girlfriend situation, or a situation involving persons who have cohabitated or shared community property) you should check with Family Court or Magistrate Court for information on where you ought to file your case.

Cases for Restraining Orders must involve at least two incidents of harassment, stalking, or other threatening situations. There is no initial filing fee, however the party which does not prevail will be required to pay an \$80 Court fee. You will also be asked to fill out a complaint and motion. A hearing date will be set 5 to 15 days from the date you file your paperwork in the Magistrate Court. This gives the court time to arrange for the papers to be served on the person named as the Defendant. Complaints will be served by a Newberry County Sheriff's Deputy. The defendant must be served before the hearing can take place. A Magistrate's Restraining Order is good for a period of one year from the date of the hearing. These restraining orders can be renewed after one year but you will need to request another hearing thirty days prior to the expiration of the restraining order.

A restraining order is a civil action, but a violation of a restraining order is a criminal offense.

IF YOU ARE A VICTIM OF DOMESTIC ABUSE, OR BELIEVE YOURSELF AT RISK

If you are not in immediate danger but believe yourself to be in need of an Order of Protection and the offender is your spouse, a former spouse or some one with which you cohabit or have cohabitated in the past, you may wish to file a Domestic Abuse case. Cases involving Domestic Abuse are filed with the Family Court. Contact the Victim's Advocate through the Newberry County Sheriff's office (803) 21-2211.