



UNIVERSITY OF  
**SOUTH CAROLINA**

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School of Law

## **Civil Protective/Restraining Order Remedies in South Carolina**

There are three civil protective/restraining order remedies in South Carolina:

- (1) **Orders of Protection**
- (2) **Restraining Orders**
- (3) **Permanent Restraining Orders**

Some people may be eligible for more than one type of order.

The following pages provide information about who is eligible for each and what types of protection each offers.

	<b>Restraining Orders</b> (Plaintiff/Defendant)
<b>Where to File?</b>	<p>Magistrates Court File at the Magistrate office located in the county</p> <ul style="list-style-type: none"> <li>• where the defendant lives;</li> <li>• where the stalking/harassment occurred; OR</li> <li>• where the plaintiff lives <i>if</i> the defendant is a nonresident of the State or cannot be found.</li> </ul>
<b>Who can File?</b>	<p><u>Anyone who has been subjected to harassment or stalking.</u></p> <ul style="list-style-type: none"> <li>• No specific relationship required.</li> <li>• Spouses, co-habitants, and those who share a child in common also may be eligible for Orders of Protection, which offer different remedies.</li> </ul>
<b>What Conduct is Required?</b>	<p>Plaintiff must be a victim of</p> <ul style="list-style-type: none"> <li>• harassment; OR</li> <li>• stalking</li> </ul> <p><i>(See pages 5-6 for definitions of harassment and stalking)</i></p>
<b>What Complaint Must State?</b>	<ul style="list-style-type: none"> <li>• The defendant is engaged in harassment or stalking against the plaintiff</li> <li>• The time, place and manner of the acts complained of;</li> <li>• The defendant's address; AND</li> <li>• Any other facts and circumstances that you think the court should know.</li> </ul> <p><i>(Police reports are helpful but NOT required)</i></p>
<b>Remedies if the Order is Granted:</b>	<p>The defendant is prohibited from:</p> <ul style="list-style-type: none"> <li>• abusing, threatening to abuse, or molesting plaintiff or plaintiff's family (<i>see page 6 for definition of "family"</i>);</li> <li>• entering or attempting to enter the plaintiff's place of residence, employment, education, or other location; and</li> <li>• communicating or attempting to communicate with the plaintiff in any way.</li> </ul>
<b>Duration:</b>	Not less than 1 year
<b>Filing Fees?</b>	There are no fees to file, however, the non-prevailing (losing) party will be required to pay the \$55.00 filing fee.

	Orders of Protection (Petitioner/Respondent)
<b>Where to File?</b> §20-4-30	<p><u>Family Court of county where:</u></p> <ul style="list-style-type: none"> <li>• the abuse occurred;</li> <li>• respondent lives/resides;</li> <li>• the parties last resided together; OR</li> <li>• petitioner lives/resides*</li> </ul> <p>* (However, if the respondent doesn't live in that county then the case will be transferred to the county where the abuse occurred, where the respondent lives/resides, or where you last lived together.)</p>
<b>Who can File?</b> §20-4-20	<p>Petitioners who share one of the following relationships with a respondent:</p> <ul style="list-style-type: none"> <li>• current/former spouse;</li> <li>• having a child in common; OR</li> <li>• current/former cohabitants.</li> </ul>
<b>What Conduct is Required?</b> §20-4-20	<p>Petitioner must be a victim of abuse, which includes:</p> <ul style="list-style-type: none"> <li>• physical harm;</li> <li>• bodily injury;</li> <li>• assault;</li> <li>• threat of physical harm; OR</li> <li>• criminal sexual offenses.</li> </ul>
<b>What Complaint Must State?</b> §20-4-40	<ul style="list-style-type: none"> <li>• The respondent abused the petitioner;</li> <li>• Specific time(s), place(s) &amp; details of acts of abuse;</li> <li>• The respondent's address; AND</li> <li>• Any other facts and circumstances that you think the court should know.</li> </ul>
<b>Remedies if the Order is Granted:</b> §20-4-60 §16-25-30	<ul style="list-style-type: none"> <li>• No abuse, threatening to abuse, molesting petitioner</li> <li>• No contact with the petitioner</li> <li>• Stay away from the petitioner</li> <li>• Temporary custody/visitation/financial support</li> <li>• Respondent vacate home</li> <li>• Assign possession of personal property and order law enforcement assistance in removing personal property of the petitioner</li> <li>• Court costs and attorney's fees</li> <li>• Other Family Court relief if applicable</li> <li>• Respondent prohibited from possession of firearms and ammunition (if court finds warranted and orders this relief)</li> </ul>
<b>Duration:</b>	6 months to 1 year
<b>Filing Fees?</b>	No filing fees.

<b>Permanent Restraining Order</b> (Complainant/Respondent)	
<b>Where to File?</b> §16-3-1910	<p><u>Circuit Court:</u> In the County where:</p> <ul style="list-style-type: none"> <li>• the respondent currently resides;</li> <li>• the criminal offense occurred; OR</li> <li>• the complainant lives, if the respondent does not live in this State, or cannot be found.</li> </ul> <p><i>(Available at the time a conviction is entered in General Sessions OR after conviction in the Court of Common Pleas.)</i></p>
<b>Who can File?</b> §16-3-1910	<ul style="list-style-type: none"> <li>• A victim of a qualifying criminal offense that occurred in South Carolina;</li> <li>• An adult who resides in South Carolina may file on behalf of a minor child who is a victim of a qualifying criminal offense that occurred in South Carolina; OR</li> <li>• A witness who assisted in the prosecution of a qualifying criminal offense that occurred in South Carolina.</li> </ul>
<b>What Conduct is Required?</b> §16-3-1900	<ul style="list-style-type: none"> <li>• The respondent was convicted of a qualifying crime (including domestic violence, stalking, harassment, sexual offenses); AND</li> <li>• The complainant suffered direct or threatened physical, emotional, or financial harm as a result of the crime.</li> </ul>
<b>What Complaint Must State?</b> §16-3-1910	<ul style="list-style-type: none"> <li>• The respondent was a person convicted of a criminal offense for which the victim was the subject of the crime or for which the witness assisted the prosecuting entity; AND</li> <li>• When and where the conviction took place, and the name of the prosecuting entity and court.</li> </ul>
<b>Remedies if the Order is Granted:</b> §16-3-1910	<p>The respondent is prohibited from:</p> <ul style="list-style-type: none"> <li>• abusing, threatening to abuse, or molesting the victim, witness, or members of the victim's or witness' family;</li> <li>• entering or attempting to enter the victim or witness' place of residence, education, employment, or other location; AND</li> <li>• communicating or attempting to communicate with the victim, witness, or members of the victim's or witness' family.</li> </ul>
<b>Duration:</b>	Determined by the court.
<b>Filing Fees?</b>	No filing fees.