

PROTECTIVE ORDERS V. NO CONTACT ORDERS

The chart below is intended to be a guide in helping determine to whom you need to see or speak with. First, in either case, the defendant must have committed an assault under I.C.A. § 708.1.

Assault is defined as an act intended to cause pain or injury or result in physical contact which would be insulting or offensive to the victim; or an act intended to place another in fear of immediate physical contact which will be painful, cause injury, insulting or offensive. The defendant must have the apparent ability to carry out any of the acts described above.

| | Protective Order (Ch. 236) | No Contact Order |
|--|---|--|
| Who may receive or apply for such an order | <ol style="list-style-type: none"> 1. Family or household members that currently reside with each other or have resided with each other within the last year. 2. Parties that are divorced or separated 3. Parties that have a minor child together. 4. Persons who are in an intimate relationship or have been in an intimate relationship and have had contact within the past year of the assault¹ | <ol style="list-style-type: none"> 1. Victims of criminal offenses for domestic violence, stalking, harassment, or sexual assault. 2. In limited circumstances, witnesses or victims of other crimes under I.C.A. § 915.22 |
| Who issues the order? | District Court Judge | Associate District/Magistrate Judge |
| Who starts the process? | Plaintiff/Victim | Law Enforcement (filing of charges) |
| Who has the forms? | District Court Clerk | Magistrate Clerk |
| Can the order set child custody, visitation and support? | Yes | No |
| Can the order keep the Defendant from a specific home or location? | Yes | No |
| Can the Order distribute property? | Yes, but not land. | No |
| Is the County Attorney involved or is able to help? | Yes, in limited circumstances | Yes |
| Is it a crime to violate the order? | Yes, I.C.A. § 664A.7 | Yes, I.C.A. § 664A.7 |
| Can I get in trouble for violating the order? | Yes it is punishable as contempt. | Yes it is punishable as contempt. |
| Type of Proceeding? | Civil | Criminal |
| Des the Defendant have a right to appointed attorney? | No | Yes (in most cases) |

If you have any additional questions, you should contact the **Phoenix House 712-256-2059** or the 24hr Crisis Line at **1-800-612-0266**. If the situation is about to become violent, CALL 911 IMMEDIATELY.

¹ In determining whether persons are or have been in an intimate relationship, the court may consider the following nonexclusive list of factors: (1) the duration of the relationship; (2) the frequency of interaction; (3) whether the relationship have been terminated; (4) the nature of the relationship, characterized be either party's expectation of sexual or romantic involvement. A person may be involved in an intimate relationship with more than one person at a time.