

1 1. The person seeking relief may file a petition for a
2 protective order with the district court in the county in which the
3 victim resides, the county in which the defendant resides, or the
4 county in which the domestic violence occurred. If the person
5 seeking relief is not a family or household member or an individual
6 who is or has been in a dating relationship with the defendant, the
7 person seeking relief must file a complaint against the defendant
8 with the proper law enforcement agency before filing a petition for
9 a protective order with the district court. The person seeking
10 relief shall provide a copy of the complaint that was filed with the
11 law enforcement agency at the full hearing if the complaint is not
12 available from the law enforcement agency. Failure to provide a
13 copy of the complaint filed with the law enforcement agency shall
14 constitute a frivolous filing and the court may assess attorney fees
15 and court costs against the plaintiff pursuant to paragraph 2 of
16 subsection C of this section. The filing of a petition for a
17 protective order shall not require jurisdiction or venue of the
18 criminal offense if either the plaintiff or defendant resides in the
19 county. If a petition has been filed in an action for divorce or
20 separate maintenance and either party to the action files a petition
21 for a protective order in the same county where the action for
22 divorce or separate maintenance is filed, the petition for the
23 protective order may be heard by the court hearing the divorce or
24 separate maintenance action if:

- 1 a. there is no established protective order docket in
2 such court, or
- 3 b. the court finds that, in the interest of judicial
4 economy, both actions may be heard together; provided,
5 however, the petition for a protective order,
6 including, but not limited to, a petition in which
7 children are named as petitioners, shall remain a
8 separate action and a separate order shall be entered
9 in the protective order action. Protective orders may
10 be dismissed in favor of restraining orders in the
11 divorce or separate maintenance action if the court
12 specifically finds, upon hearing, that such dismissal
13 is in the best interests of the parties and does not
14 compromise the safety of any petitioner.

15 If the defendant is a minor child, the petition shall be filed
16 with the court having jurisdiction over juvenile matters.

17 2. When the abuse occurs when the court is not open for
18 business, such person may request an emergency temporary order of
19 protection as authorized by Section 40.3 of this title.

20 B. The petition forms shall be provided by the clerk of the
21 court. The Administrative Office of the Courts shall develop a
22 standard form for the petition.

23 C. 1. Except as otherwise provided by this section, no filing
24 fee, service of process fee, attorney fees or any other fee or costs

1 shall be charged the plaintiff or victim at any time for filing a
2 petition for a protective order whether a protective order is
3 granted or not granted. The court may assess court costs, service
4 of process fees, attorney fees, other fees and filing fees against
5 the defendant at the hearing on the petition, if a protective order
6 is granted against the defendant; provided, the court shall have
7 authority to waive the costs and fees if the court finds that the
8 party does not have the ability to pay the costs and fees.

9 2. If the court makes specific findings that a petition for a
10 protective order has been filed frivolously and no victim exists,
11 the court may assess attorney fees and court costs against the
12 plaintiff.

13 D. The person seeking relief shall prepare the petition or, at
14 the request of the plaintiff, the court clerk or the victim-witness
15 coordinator, victim support person, and court case manager shall
16 prepare or assist the plaintiff in preparing the petition.

17 E. The person seeking a protective order may further request
18 the exclusive care, possession, or control of any animal owned,
19 possessed, leased, kept, or held by either the petitioner, defendant
20 or minor child residing in the residence of the petitioner or
21 defendant. The court may order the defendant to make no contact
22 with the animal and forbid the defendant from taking, transferring,
23 encumbering, concealing, molesting, attacking, striking,
24 threatening, harming, or otherwise disposing of the animal.

1 F. A court may not require the victim to seek legal sanctions
2 against the defendant including, but not limited to, divorce,
3 separation, paternity or criminal proceedings prior to hearing a
4 petition for protective order.

5 G. A victim of rape, forcible sodomy, a sex offense,
6 kidnapping, assault and battery with a deadly weapon, child abuse,
7 or member of the immediate family of a victim of first-degree
8 murder, as such terms are defined in Section 40 of this title, may
9 petition, or have a petition filed on the victim's behalf if the
10 victim is a minor, for an emergency temporary order or emergency ex
11 parte order regardless of any relationship or scenario pursuant to
12 the provisions of this section. The Administrative Office of the
13 Courts shall modify the petition forms as necessary to effectuate
14 the provisions of this subsection.

15 SECTION 2. This act shall become effective November 1, 2023.

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17 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CRIMINAL, dated
18 04/05/2023 - DO PASS.

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