

HARRIS LAW & CO.

Protecting Families & Businesses Through All of Life's Journeys

HOW TO ENFORCE PROTECTION ORDERS

Applying for and obtaining a protection order is a process and does not happen overnight. Although temporary protection orders may go into place immediately, there is still a court process to keep that order in place. Check out our other articles for more information on how to obtain a protection order and what your day in court looks like. Today, we are going to discuss how to enforce your protection order and what legal ramifications exist for violating a protection order.

When is a protection order enforceable?

As soon as the protection order is served on the respondent (the person the order is against), it is legally enforceable.

What is the punishment for violating a protection order?

It is a crime to violate a protection order, just like it is a crime to steal from a store. A violation of either an ex parte or permanent protection order is grounds for criminal charges and prosecution. Violating a protection order is punishable by up to 1 year in jail and a \$2,000 fine.

Are protection orders from other states enforceable?

Yes! Protection Orders granted by a judge from another state, jurisdiction, or reservation are enforceable in South Dakota.

How do you report a violation?

Call the police. If it is an emergency, call 911 to report the emergency and violation. If it is a non-emergency, call the station number to report the violation. YOU NEED TO



REPORT EVERY VIOLATION. It is important that you continue to stay vigilant and maintain the guidelines of your protection order. If your order prohibits third party contact and that order is violated, be sure to report that as well. Any time a part of your protection order is not followed, make a timely report with the police, regardless if it is an emergency or not.

What happens when I report a violation?

Under South Dakota law, the police are required to make an arrest if they have probable cause to believe the protection order was violated. Upon obtaining probable cause, the violator will be jailed and there is then a separate criminal case. Then, a judge will determine if bail is warranted, the bail amount, and any other necessary conditions of bail.



CAN I MODIFY A PROTECTION ORDER?

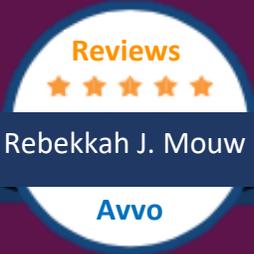
Yes! Protection orders can be modified to accommodate changes in circumstances. They can also be dismissed in their entirety if the protected party consents.

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**Rebekkah J. Mouw
is a skilled advocate
on our Family Law
Team.**

Our Passion Shows!



**Thank you for
helping us better
serve our
community by
referring us to your
friends & family.**

**Check out our
website for other
helpful articles,
videos, & seminar
opportunities.**

When bail is posted and the defendant (person who violated the protection order) is release from jail, a court date will be set and an initial appearance before the Court is required.

At the initial appearance, the defendant will either admit to the violation or plead not guilty. If the defendant pleads not guilty, a preliminary hearing will be scheduled and testimony from those with first-hand knowledge of the violation(s) will be taken. If the defendant pleads guilty or is found guilty after a trial, the Court may order jail time, a fine, and/or counseling for family violence.

Is the protection order cancelled if the Defendant is found not guilty?

YOUR PROTECTION ORDER REMAINS IN EFFECT REGARDLESS OF THE OUTCOME OF THE TRIAL. Your protection order is a separate court order and is valid and enforceable under the terms of the order. It is important that you continue to uphold the terms of the protection and report any and all violations.

What do I do if the order is violated after bail?

Should the defendant (person who violated the protection order) reach out to you after he or she is released on bond, it is imperative to notify the police immediately. If the bond and protection order are violated at this point, the court may likely revoke bail and the defendant may await his or her hearing in jail.

Do I need to hire an attorney?

No. If you are the one reporting the violation, you do not have to have a separate attorney. As this is a criminal matter, the prosecutor (attorney for the state) is the one advocating on your behalf. That attorney will likely reach out to you prior to the hearing to get more information. If you are going through a divorce or custody dispute, it is a good idea to let your attorney know what is happening so they can prepare better for your case.

The defendant will likely hire an attorney and may even qualify for a public defender to represent his or her interests at the hearing.

Can I reach out to someone I have a protection order against?

You should not reach out to or contact the person you have a protection order against under any circumstances, unless explicitly allowed by the court. For example, the court may require visitation with minor children. At the end of the day, a protection order is still just a piece of paper telling someone that they may not have contact with another person; it doesn't prevent actual acts of violence. All violations, no matter how minor, should be reported to the police immediately and you should still take other precautions to protect your safety.

If you need help with a protection order, give our family law team a call. This is what they do every day all day. They will be able to walk you through the process and advocate for you. 605-777-1772.

**This article is only intended to give general information and not specific legal advice. Consult with an attorney on your situation before taking any legal action.*