

For how long is a court order valid?

Protective orders and restraining orders under the Violence Protection Act are issued for a limited period. They usually apply for six months. If the harassment continues, you can apply for an extension. However, this has to be done before the period expires and has to be made plausible again.

Is a court hearing required?

If the situation is not clear to the court, the court invites both concerned persons to a personal hearing.

This can result in oral proceedings if the defendant applies for oral proceedings.

The aim of a hearing is to listen to both sides to see if the protective order should be maintained. Therefore the applicant should mention everything that can clarify the threatening situation. Witnesses can also be called upon.

When the application is well prepared, a separate hearing of the concerned parties can take place. In addition, in the event that a hearing is scheduled, the court can, if applied to, ensure that special precautions are taken for the protection of the victim during the hearing.

Accompaniment

Family Court proceedings are not open to the public. On request, the court can agree to a court accompaniment in the form of a female expert adviser, or a person of trust.

It is a good idea to prepare the main hearing well. You can seek information from a solicitor or at a specialist counselling centre.

What to do if the protective order is violated?

- A violation is an offence and therefore liable to prosecution. You can call the police and file charges. It is important to always carry a copy of the protective order around with you.
- You can also apply to the legal department of the local court for a fine to be charged or, if required, an arrest. This application can be subject to a charge and could possibly result in court proceedings.

It makes sense to have the measures taken against a breach of the protection order monitored by an expert.

Consultation and support free of charge

is provided in the event of applications under the Violence Prevention Act at the following places:

Legal advice can be obtained from:

Practicing solicitors. Costs arise for their fees. If you have a very low income or no income at all, you can apply for a counselling services certificate [Beratungshilfeschein] from the court's legal department. You can use this to receive counselling from a solicitor of your choice. The Weißer Ring association can also take over the costs for legal counselling.

These 'Practical Tips' have been prepared and published by "KIK – Netzwerk bei häuslicher Gewalt" – a network for the prevention of domestic violence of the Council for Criminal Prevention in the Hanseatic City of Lübeck.



Practical tips for applications under the Violence Protection Act

If you need personal protection against threats, violence or stalking, a protective order and/or restraining order can be issued upon application. This involves a hearing under the Violence Prevention Act. You appear as the applicant and the application is filed against the person who has threatened, stalked or injured you. The court can pass a decision on the same day as when the application is filed, without previously requesting the defendant to appear for a hearing.

The following information might be of help to see that your application is filed quickly and successfully.

As a way of preparing yourself, we strongly recommend informing yourself at one of the counselling offices listed overleaf.

What can I apply for?

- Ban on approach (prohibiting the person from approaching you, your apartment, your place of work, nursery school or other places where you reside on a regular basis)
- Ban on contact (prohibiting the person from contacting you personally, by telephone, SMS, e-mail or by way of letter)
- Restraining order (prohibiting the person from entering the apartment, house or other locations where you reside on a regular basis)
- Eviction from the apartment

Who can file the application?

You, as the person affected, can file the application, or you can assign a female (or male) solicitor to do so for you.

It is prudent to consult an advice centre for support.

Where do I file the application?

You can choose from the following options with respect to applications under the Violence Protection Act:

Legal department of the local court in the district in which:

- the offence was committed;
- the common flat is situated;
- the defendant resides.

When should I file the application?

With regards to expedite proceedings, it is extremely important to file the application as promptly, or as close to the actual events as possible as it is otherwise not deemed urgent. Prompt means that – depending on what has happened – you should not wait longer than 14 days, for example. Make use of the time, for example, defined in the police-issued eviction order. Don't wait to go to court until the end of the period of the eviction order so as to ensure that the protective order becomes effective before the eviction order expires!

What should the application include?

A precise and detailed description of what has happened is particularly important for the court to make an assessment. Be prepared that you will have to describe what you have experienced personally. Point out when children are involved or if a police ban ordinance has been issued. If events have taken place more than 14 days ago e.g. physical assault or other significant assaults, they must also be mentioned. If you apply for expedite proceedings, an affidavit must be added to the application, confirming that what you say is the truth. Consider carefully what you want to apply for, for example, at which concrete location you require protection and what exactly the defendant should refrain from doing. As every case is different, precise phrasing is helpful.

Orders to protect any joint biological children concerned cannot be issued under the violence protection act. In the event that your children are at risk, please contact the youth welfare office [Jugendamt] or a counselling centre.

What do I have to bring with me?

Documents:

Valid identity card, rental agreement or entry in the land registry for an application for a restraining order with regard to the place of residence. If you would like to apply for legal aid, you must bring documents with details of your income (e.g. salary, family allowance, pension) and also of your expenses (rent, insurances, related costs, loans, etc.). A full social security assessment [Hartz-IV-Bescheid] already includes all the necessary information.

Delivery address:

An order cannot be issued until the address of the molester is known, as it cannot otherwise be delivered. This can also be the address of his employer or another person with whom he resides. If the address is absolutely unknown, the application might possibly not be accepted.

Evidence pertaining to the credibility of your statement:

Bring everything that provides evidence for the information in your application: e.g. letters, text messages, medical reports, photos of injuries, written statements from witnesses. If the police have intervened, the case numbers of the assignments are important. Contact the relevant officer for 'Domestic Violence' at your local police station. Please inform the court of the respective police station.

What kind of costs can I expect?

As it is an application procedure, costs can be incurred. If you have no personal income at all or very little income, it is important that you apply for legal aid together with the application for the protective order.

How do I find out about the result?

Ask your legal officer how to find out about the judge's decision.

Sometimes it's worth staying to wait for the result or in the event that there are any further questions. You can also agree to phone at a specific time. The decision is always sent to you in writing, however delays can be incurred in the mail. You can also pick it up personally.

When does the protective order come into force?

If the court decrees immediate effectivity, the order is enforced at once. As soon as the offender has been informed about the protective order, the offender can be prosecuted immediately for any breaches of the order.