



**SEEKING PROTECTION
FROM DOMESTIC
VIOLENCE IN NEW YORK'S
FAMILY COURT:**

Information for Immigrant
Victims with Limited English
Proficiency



Empire Justice Center

Making the law work for all New Yorkers

What is domestic violence?

If your current or former intimate partner does things that make you feel threatened or afraid, follows you, harasses you at work, controls family money, destroys your property (such as your passport or immigration papers), forces you to have sex, hurts or injures you, calls you names, or threatens to kidnap your children, you may be abused. In the United States, domestic violence is very common and it is against the law. You are not alone and you have the right to be safe. If you think you may be abused, help is available - even if you are not a citizen or if you are living in this country without papers or permission.

Are there places to get information and help?

Every county has at least one organization that helps victims of domestic violence. Local domestic violence programs can provide you and your children with information about your rights, an emergency hotline, shelter, food, and counseling. Usually, these services are free. Some communities may also have domestic violence programs that help people from specific international communities or cultures. You can get help from a domestic violence program even if you are not a citizen or are living in the US without papers or permission. Programs cannot turn you away because of your immigration status and cannot report clients to immigration authorities. These programs will help you even if you stay with friends or family or if you are still living with your abuser. If you do not know how to connect with your local domestic violence program, you can call a 24-hour hotline for more information:

If you live anywhere in NY, call:

1-800-942-6906 (assistance available in up to 120 different languages)

If you are Deaf or hard-of-hearing, call:

711 (Relay Service)

If you live in NYC, call:

1-800-621-HOPE (4673)

New York State also publishes a helpful guide for victims called Domestic Violence: Finding Safety and Support. It is published in English, Spanish, Arabic, Chinese and Russian. This guide is only available online at:

<http://www.opdv.ny.gov/help/fss/contents.html>.

How can I get help from a domestic violence program if I do not read or speak English well?

A domestic violence program must communicate with you in the language you are most comfortable with. If they do not have staff

who speak your language, the program must provide you with free language assistance, such as translated forms or a qualified interpreter. A program may need to use a phone service, such as Language Line, to communicate with you if an in-person interpreter is not available. It is not appropriate for a program to use a phone service for long conversations, such as counseling or support groups. You should not use, or be asked to use, your children, family, or friends as your interpreter.

If I am a victim of domestic violence, can I get help with my immigration questions or concerns?

If you have questions or concerns about your immigration rights, the local domestic violence program may be able to connect you with a knowledgeable lawyer or advocate who can help. Help may be available for free or at lower cost.

If you don't have legal status you should know that the United States has several laws that may allow you to live and work in this country legally if you are a victim of domestic violence or other crimes. To get help under these laws, you may need to cooperate with the police in prosecuting your abuser. You may also be helped under these laws if you go to family court for protection against your abuser. Here, too, you must be sure to follow through with the court proceedings and go to all court dates that are scheduled. These immigration laws are complicated, so it is very important that you speak with an experienced lawyer or advocate who can explain your options. Depending upon your situation, getting an order of protection from family court or cooperating with the police can help your immigration application.

Should I call the police for help if I do not read or speak English well?

Domestic violence is a crime and the police may arrest your abuser and charge them with a crime if they think the law was violated. If you need to go to a safe place, like a domestic violence shelter or a friend's house, the police may be able to transport you there.

Communicating with police can be difficult if they arrive at the scene but do not speak your language. If you or your children are hurt or scared, it may be even harder to talk with them. You should know that the police must provide you with free language assistance if they do not speak your language, such as a bilingual officer or official interpreter. You may need to wait for language help if the police don't have a bilingual officer or interpreter immediately available. At the very least, you should be given an interpreter through a phone service. Police officers should never use your abuser as an interpreter. They also

shouldn't use a family member, friend, or your children unless there is an emergency and being able to communicate with you is necessary to ensure everyone's safety.

Do not sign official complaints or statements until they have been translated or interpreted for you by a qualified interpreter. These are legal documents that can be very important to your case later on, so their content must be as accurate as possible.

Even if your abuser is not arrested for abusing you, the police must give you a Victim's Rights Notice with information about your rights and options, as well as a copy of a Domestic Incident Report detailing what happened to you. The Victim's Rights Notice is available in English, Spanish, Haitian Creole, Bengali, Traditional & Simplified Chinese, Korean, and Russian. The translated notices can also be found online at: <http://www.nycourts.gov/forms/familycourt/domesticviolence.shtml>. The police may talk to you about your options in criminal court or suggest you seek help from the family court. You have the right to both file criminal charges against your abuser and seek help in family court.

Remember, cooperation with the police and Family Court will not only help you to be safe, it may help you with your immigration status later.

Will the police report me or my abuser to immigration authorities if I call for help?

Police agencies will generally not ask about immigration status when called for help. However, when a person is arrested and fingerprinted, immigration authorities will be alerted. Unfortunately, victims of domestic violence are sometimes arrested if the police can't decide who is responsible for what has happened. This does not necessarily mean that immigration will become involved but, if they do, you should tell immigration right away that you are the victim of a crime. You should then plan to see an experienced immigration lawyer as soon as possible to discuss your legal options.

What is Family Court and how can it help me?

One of the most common places to get protection from abuse in New York is the family court. Family courts are civil courts that decide cases involving family problems, such as domestic violence, child abuse, child custody or support. Every county has a family court and filing a case there is free. These courts are open during regular weekday business hours. You do not need to be a citizen or read or speak English to get help from the family court. This court can issue an "order of protection" and, depending upon the time you arrive at court, you may get a temporary order the same day you seek help.

What is an order of protection and how can it help me?

An order of protection is a legal document issued by a judge that directs your abuser to abide by certain conditions. Only a judge can issue an order. Orders of protection are available in many types of proceedings in family court. They are also available as part of a divorce case or if you press criminal charges.

A family court order of protection can be tailored to specific safety needs and concerns. For example, it can order your abuser to stop contacting you or stay away from you and other places you frequent (school, job, or business). If you live together, the order can make your abuser leave the home you share. If you have children together, it can limit or stop your abuser's contact with them, decide custody or visitation, and give you child support. If your abuser has threatened to kidnap your children or take them out of the country, the court can intervene. If your abuser has guns, the court may take them away. An order of protection from family court can last as long as 2 or 5 years, depending upon your circumstances. You do not need to file criminal charges or have a police report to ask the family court for help. Asking a family court for an order of protection will not result in your abuser going to jail or being deported.

Although an order of protection cannot guarantee your safety, if your abuser obeys its terms, it can help keep you safer. If your abuser disobeys the court's order, you can call the police or ask the family court for more protection. Orders of protection may also help your immigration case.

Do I need a lawyer to file for an order of protection?

A lawyer is not necessary. However, having a lawyer will help you better understand all of your legal rights and options. The lawyer will be your advocate and negotiate with your abuser for you. If you cannot afford to hire an attorney yourself, the family court may be able to appoint a lawyer to represent you for free after you file your petition. Your local domestic violence program can help you find legal assistance in your area. To prepare your case appropriately, your attorney is obligated to effectively communicate with you and explain legal matters. In some cases, your attorney is required by law to provide you with language assistance (interpreter or translated letters or documents) for free if they cannot communicate with you in your language.

How do I qualify for an order of protection from family court?

You do not need to be living separate from your abuser to seek an order of protection. However, many victims seek an order when they decide that staying in the relationship is not safe for them or their children.

Only persons who have a family or intimate relationship with their abuser can get an order of protection from a family court. To qualify, you and your abuser must be:

- Married to or divorced from each other, including same-sex marriages
- In a current or former dating or intimate relationship (boyfriend or girlfriend, domestic partner)
- Related by blood (parent, grandparent, child, sibling, uncle, cousin)
- Related by marriage (in-laws, step-parent, step-sibling, step-child)

Your abuser also must have abused you one or more ways, such as threatened or followed you, threatened you with a weapon, harassed you in person or over the phone/email, strangled you, hit or shoved you, yelled at you, damaged or destroyed your property, physically or sexually abused you, or did things that made you fear injury or death.

Do I need to be able to speak or write in English to seek an order of protection from Family Court?

Although court business is conducted in English, you have the legal right to have an interpreter help you communicate with court staff, judges, and attorneys in the language in which you feel most comfortable. Court proceedings can be very confusing and stressful, even for those who understand English well. As these proceedings are very important to your safety, it is critical that you understand what is going on and the court understands you. Interpreters can assist you both in the court room, as well as during communications with court staff.

How can I alert the court that I need language assistance?

Courthouses should have signs in different languages that advise people about the availability of free interpreters. The Family Court Clerk's Office may use an "I Speak" card that allows you to point to the language you speak so staff will know what assistance you need. If your language is not listed on the "I Speak" card, do not be alarmed. The cards do not list every available language and the court can provide

interpreters in over 100 languages. Be sure to ask for language help if you need it.

Family court clerks receive special training on how to help people with language assistance. While many courts may quickly understand that you need an interpreter, others may not realize this right away. If you are not immediately offered an interpreter and need one, you should request one on your own. If you do not make this request, the court may assume you do not need help. If you are afraid to ask for help, you can bring someone you trust to advocate for you, such as a domestic violence program advocate, friend or family member.

Should I request an interpreter from the court before I seek help there?

The first time you go to court, it may take as long as a few hours to find an interpreter for you, particularly if you speak a language that is not common in your community. While face-to-face interpretation is preferred, in some cases the interpreter may be provided over phone or video. You should ask the clerk's office to get a remote interpreter for you if it is not possible to get a live interpreter within a few hours. Once the court is aware that you need an interpreter for future court appearances, they will make arrangements to have an official interpreter available when you return.

If you know you will need an interpreter in advance, it may be helpful to have your lawyer or domestic violence program advocate notify the court you are coming. You or your advocate should contact your local Family Court Clerk's Office and tell them you have an urgent, domestic violence situation. If needed, you or your advocate may contact the NYS Court System's Office of Court Interpreting Services directly at: (646) 386-5670 or courtinterpreter@nycourts.gov to get help. Unfortunately, some courts cannot arrange for an interpreter until you arrive.

You may be given a different interpreter each time you go to court. You may need to share the same interpreter with your abuser at court if your abuser also needs language assistance. Remember, the interpreter is there to help you communicate, not to take sides or advocate for one person over the other. The interpreter is not permitted to tell your abuser anything you say when speaking privately at court with lawyers or others.

Will I have to pay for an interpreter in family court?

Family court must provide you with a qualified, official interpreter for free. Interpreters hired by the court system in New York must take mandatory training and pass examinations both in English and the other language they speak. Official interpreters also have other professional obligations. They are not allowed to share the information they learn about you and your family while assisting you. They are also not permitted to have private conversations with you, give you legal advice, or tell you what to do with your case.

Can I bring a friend or a relative to be my interpreter at court?

You should not have a friend, relative, or your child serve as your interpreter or translator. Although these people may be bilingual, there are many reasons why they should not interpret for you. First, interpreting and translation is very difficult and requires special skills and training. Unlike friends or family, official interpreters also have obligations to keep what you say private. Second, you will need to discuss personal experiences that are troubling or sensitive and this can be difficult to do in front of people who care about you. Court staff or judges should never ask you to use a friend, relative, or your child serve as your interpreter for court business. You have the right to an appointed interpreter throughout your court case. If you want to bring a trusted friend or family member with you for support, you should still use an official interpreter.

What should I do if I have a problem with the interpreter assigned by the court?

While many victims of abuse have positive experiences with interpreters in family court, problems may arise. You should immediately alert your attorney, advocate or the court if you have any concerns. Some common problems are:

What if the interpreter assigned to me speaks my language but does not know my dialect or is not understandable for another reason?

Advise the court that the interpreter is not communicating effectively in your language.

What if my abuser or I personally know the interpreter?

The personal relationship with the interpreter should be revealed to the court. The court will decide if this relationship is a conflict of interest. If you do not feel safe or comfortable using this interpreter, you should advise the court of your concerns.

What if the interpreter is not adequately interpreting what I say or making mistakes in translation?

Advise the court that the interpreter is not communicating accurately.

What if the interpreter is giving their own opinion, trying to give me legal advice, or making personal comments about my case?

Interpreters are not allowed to do this and you should notify the court. Do not seek or accept their advice.

If I would feel more comfortable using an interpreter who shares my gender, can I make such a request?

The court will try to be sensitive and accommodate your request, depending on the availability of interpreters in your language. You may need to explain why this is preferable for you and if it is based upon your culture or religion or because of your abuse.

If you are not able to resolve interpreter problems directly in the Clerk's Office, you should report the problem to the Chief Clerk's office in the court. If you have a concern or complaint about the court's interpreting assistance, you may also contact the NYS Office of Court Interpreting Services. You may share your concerns in English or in the language you are most comfortable with.

*NYS Unified Court System
Division of Professional and Court Services
Office of Court Interpreting Services
25 Beaver Street, 8th Floor
New York, NY 10004
Phone: (646) 386-5670
Fax: (212) 428-2548
Email: courtinterpreter@nycourts.gov
Website: www.nycourts.gov/courtinterpreter*

How can I complete the paperwork for an order of protection if English is not my primary language?

You will need to fill out a petition asking the court for an order of protection and explaining your abuser's history of threats or abuse against you and/or your family members. Some family courts have people available on site to help you complete your petition, such as a clerk's office staffer, a probation officer, an attorney, or a domestic violence program advocate. In these cases, an official interpreter should be provided to help you communicate. Unfortunately, some courts do not offer on-site assistance filling out the petition. If this is the case,

ask the clerk to give you an interpreter to help you understand what the petition requires. You will then need to complete the petition on your own. You may ask the domestic violence program to help you fill out the petition or help you find you an attorney to assist. You will then need to return the completed petition to court for processing.

You will need to verify your identity when you sign your petition. Verification requires you to have personal identification that contains your photo, such as a driver's license, non-driver's identification card, passport, public assistance benefits card, immigration identity card, professional license, school identification card, or employee badge. If your identification is unavailable (abuser keeps or destroyed it, lost, unable to take it when you left), advise the person verifying your petition of this problem and discuss other ways you can verify your identity. If you want to keep your address a secret from your abuser, there is a form you should also fill out and include with your petition asking the court for this relief.

What will happen after I file the petition?

After the court reviews your petition, it may issue a temporary order of protection. The order of protection will be in English, so try to remember the terms as best as you can or have someone translate it for you. Your abuser will be served with a copy of the petition and the order and will have to come to court to answer your petition. There will likely be one or more court appearances to resolve your case. You are entitled to a qualified interpreter at all further proceedings and the court will make the arrangements.

If the family court involves other professionals in my case, how can I communicate with them?

As part of your order of protection case, the family court may involve other service providers. If your children are appointed an Attorney for the Child, that attorney must arrange for a qualified interpreter to communicate with you - or them - for free. Other types of service providers, such as a supervised visitation center or mental health evaluator, may also need to provide you with language assistance at no charge, depending on their funding. Your attorney should ensure that you are able to effectively communicate with these providers.

What if I need help paying for food, housing, or medical care?

You may qualify for public assistance benefits to help pay for rent, food, or medical care for you and your children. Applications are available at your local welfare office or online at: <http://otda.ny.gov/programs/applications/>. Applications are available in English, Arabic, Chinese, Haitian/Creole, Italian, Russian, and Spanish. Benefits you qualify for can vary based upon your immigration status. You are entitled to a free interpreter to communicate with welfare office staff.

What do I do if I have been denied access to an interpreter or want to file a complaint about the quality of the interpreter assigned to me?

Language access is a civil rights issue and you are legally protected from discrimination. You have the right to complain about poor treatment and can contact the New York State Office of the Attorney General, the U.S. Department of Justice or the New York State Division of Human Rights:

New York State Office of the Attorney General, Civil Rights Bureau

Phone: (212) 416-8250

Email: Civil.Rights@ag.ny.gov

New York State Division of Human Rights

Phone: (718) 741-8400

Website: <http://www.dhr.ny.gov>

United States Department of Justice, Civil Rights Division, Coordination & Federal Compliance Section

Phone: (888) TITLE-06 (voice or TTY)

EMPIRE JUSTICE CENTER

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