



NCCADV

North Carolina Coalition
Against Domestic Violence

QUICK GUIDE TO ENFORCING YOUR PROTECTIVE ORDER

WHAT DO I DO IF THE DEFENDANT IS VIOLATING THE PROTECTIVE ORDER WE HAVE IN PLACE?

I. IF THE DEFENDANT VIOLATES AN ORDER THAT IS STILL AN *EX PARTE* ORDER

- **If the order has not yet been legally served on the defendant:** If the order has not been legally served on the defendant, you won't be able to charge the defendant with a violation of the order. You can still contact law enforcement to report the violations and make a record of them (ask them to document the incident). Contact your attorney if you have one and let the attorney know of the violations. Preserve any evidence of the violations, and bring it to the one-year hearing.
- **If you don't know whether the order has been served:** Contact the DV clerk where you filed the paperwork and ask them to check service. If the order has been served and the violation occurred after the date and time of service, you can proceed to section II below.

II. IF THE DEFENDANT VIOLATES A SERVED *EX PARTE* ORDER OR A "PERMANENT" PROTECTIVE ORDER

There are options for enforcing an order that has been served and that the defendant has violated.

- **Criminal Charges**
 - A violation of any part of a protective order is a class A1 misdemeanor. If you would like the defendant charged with a crime, you can report it to law enforcement (either by calling 911, or if it's not an emergency in the moment you can contact law enforcement in a non-emergency manner. If law enforcement refuses to issue charges you can proceed to the magistrate to take out citizen-initiated charges, but it is preferable to have law enforcement file the charge.
 - **Mandatory arrest:** Law enforcement must make a warrantless arrest of a defendant who
 - violates a provision of an order requiring the defendant to stay away from your residence
 - Violates a provision requiring a defendant not to threaten, abuse, or follow you

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- Violates a provision requiring a defendant not to harass you by telephone or other means
 - Violates a provision requiring a defendant not to cruelly treat a pet of yours or your child's
 - Violates a protective order by "otherwise interfering" with you
- **Contempt Actions**
 - If you would rather not file criminal charges but you still want the court to enforce your protective order, you can elect to file a contempt action. In a contempt action, you basically go back to court and tell a judge that a defendant is violating the order, and let the judge decide what to do.
 - If a judge finds the defendant in contempt of court, the judge can do a number of things, including fining a defendant as well as putting a defendant in jail.
 - To file a contempt action, you can ask the clerk of court for a form to fill out and explain what the defendant is doing to violate the order. If the judge finds that what you write, if true, would be a violation, the judge will set a court date to hear the contempt action.
- **Doing Nothing**
 - Unless a violation happens in the presence of a law enforcement officer, or you or someone else calls 911 for an emergency incident that is a violation, you are not required to file charges or a contempt action for a violation. However, if the defendant repeatedly engages in violations and you choose not to enforce the order, or you and the defendant are communicating and having contact even though the defendant is ordered not to do so, it may be held against you later if you do try to enforce the order, or if you file for a renewal in the future.

III. MOVING INTO OR OUT OF NORTH CAROLINA WITH A PROTECTIVE ORDER

- **Full Faith and Credit:** States must honor valid court orders from another state. Because of this, a protective order from one state is valid in other states.
 - **If you are moving out of North Carolina,** your protective order will protect you in another state until it expires. Check with the clerk of court in your new state and ask whether you can register your protective order. Even if you cannot, you can show your order to law enforcement if you need to enforce it.
 - **If you are moving into North Carolina,** you can choose to register your protective order by going to the clerk or sheriff's department and asking to have it registered. Even if you don't register your order, you can show your order to law enforcement if you need to enforce it.