

## Protection from Abuse Related Safety Planning

Filing a PFA Petition is a request for legal action by the Court for your protection. It will involve future court appearances. It may result in Court orders that affect you for one year in the future.

You should ask yourself the following questions before filing a Petition seeking a Protection from Abuse Order.

### **Do you plan to leave Kansas in the next 60 days?**

It could take 30 days to fully resolve this matter, during which time you may be required to appear for Court in Kansas. Your Kansas PFA is valid and should be recognized in another state. It may require a bit more paperwork, so tell the Court Clerk that you may be leaving Kansas and get the paperwork while you are in Court.

If there are minor children involved, the court could issue orders involving contact with their other parent that must be followed for one year. If you plan to leave Kansas, you should consider these issues, because a PFA may tie you to Kansas. However, if abuse happened in Kansas, you may not be able to apply for a protection order in the new state.

### **Do you have a plan for meeting basic needs?**

Do you have a plan for where to stay, if you need to stay elsewhere until the defendant is served, or after, if it is too dangerous to stay where the defendant knows where you are? Do you have important documents, such as your driver's license and insurance card, birth certificates for self and children, passports, Social Security cards, a copy of last year's income tax return, your last pay stub, a check book, debit cards, etc? If you are asking that the home be your residence and the defendant be kept out, do you have money to afford the rent/house payment, utilities, taxes, etc on your own? While the court may order the abuser to help you pay for these things, there is no guarantee that he will in fact pay them. Therefore, you should be prepared for the possibility that you will have to pay all of the bills on your own. Will you have transportation once you are separated from your abuser/stalker? The court will not necessarily allow you to keep the vehicle you are driving, especially if you are not married and the car is in his name. Finally, while the court may issue an order for child support, you can never be sure that the defendant will pay. You should make sure that you have a way to support yourself and your children if you leave. There are many services out there to help you. You may want to contact one of them prior to leaving, if it is safe to do so.

### **Is criminal prosecution for serious charges a likelihood in your case?**

If your abuse or situation is likely to get attention from the news media (television, newspaper), you should consider this when filing a PFA or PFS. This could result from very serious abuse requiring a several day hospital stay or abuse by a person who is a known public official, police officer, school official, politician, etc. The PFA complaint is a public document when it is filed. You may find the statements you make in the PFA appearing in the news. If you think this is a concern, talk to an attorney about asking the Court to seal the complaint from public view. You cannot seal the complaint from the Defendant, under any circumstances.

### **Has paternity been established by court order or does a father's name appear on the birth certificate?**

The status of "legal father" gives a man legal rights to a child, even if he is not the biological father. A man is the "legal father" of a child if he has signed the acknowledgement of paternity form at the hospital (or afterward) or been determined by Court order to be the father of the child. This status gives a father an equal right to custody of children, unless a Court determines that a change would be in the children's best interest. If children are involved in a PFA, you need to know whether a "legal father" is involved in the matter. It is always a possibility that a man will be awarded some custody and/or visitation in a PFA order even if he has not been previously determined to be the father of the children. Additionally, sometimes the filing of a PFA and admission of having a child in a dangerous environment can support a claim by the children's father, even if that relationship has been over for some time.

### **Do you plan to file for divorce?**

Many parts in a PFA, beyond the orders to stay away from the victim, are similar to orders issued in a divorce temporary order. This includes possession of the residence, child support and custody, spousal support, possession of personal property and payment of bills. Duplicate orders in PFA cases and divorces can create difficulties down the road. If you are promptly filing for a divorce and are sure you have the financial resources to do so (or qualify for free legal services and have been accepted by an attorney for a divorce), consider asking only for the no contact portion of the PFA. If you do this, you should not check the boxes in the section about additional relief to be determined at the hearing.

Some courts will not issue a final PFA order if they know that a divorce or paternity case is going to be filed. They will continue the temporary orders until the domestic case is on file. Additionally, make sure that the clerk knows if you have ever been involved in a case with the other party in that county. Some courts will assign all cases involving the same parties to one judge.

### **Do you want the Court to modify a prior court order?**

It is legally difficult to get a court to modify a prior court order through a PFA. If there is a visitation order regarding children, for example, the Court in the PFA may be unable to modify that order. You should consider seeking a separate modification of that order from the Court or Judge that issued the order. You can do this at the same time you are applying for a PFA order.

### **Have you or someone else filed for a protection order against the defendant?**

What was his reaction? Did he violate the order? If your abuser has not abided by court orders in the past, or does not abide by the law in general, a protection order may be more dangerous than helpful to you. If this is the case, you should talk to a domestic violence advocate to determine whether the protection order is right for you.

### **Have you talked to a domestic violence advocate about creating a safety plan?**

It is imperative that you have a safety plan in place to work in conjunction with the Protection from Abuse Order.

Note: These website links below should be used only from a safe computer. It is impossible to cover your tracks on a computer. Your visits to this and all websites can be seen by others who have access to this computer. Once in the KCSDV website, there is an escape button in the upper right corner that will take you to a Google search page. This only removes the website from the screen. Your use of the website is still visible in the computer's "history".

You can contact a domestic violence program in your area at: - <http://kcsdv.org/find-help/in-kansas/dv-sa-services.html>

Or **1-888-END ABUSE** (1-888-363-2287)