

Being Harassed? Maybe You Can Get a Civil Stalking Protection Order, by Kate Feeks, Courthouse Reporter for CZ Court Reporter at www.czcourtreporter.com



Magistrate Barbara Porzio

If you are being harassed and fear for your safety, or if the harassment causes you “mental distress” -than you may have grounds to go to court and file for a Civil Stalking Protection Order.

The stalking statute states that “No person by engaging in a pattern of conduct shall knowingly cause another person to believe that the offender will cause physical harm to the other person or cause mental distress to the other person.” Engaging in a “pattern of conduct” means knowingly causing another person to believe that you will cause them physical harm or cause them mental distress. “Mental distress” means any mental illness or condition that involves some temporary substantial incapacity or mental illness or condition that would normally require psychiatric treatment.

According to Magistrate Barbara Porzio of the Medina County Court of Common Pleas, the procedure for obtaining a Civil Stalking Protection Order is first, a petition must be filed with the Clerk of the Common Pleas Court. The judge assigned to the case will then refer that petition to a magistrate and an ex parte hearing, or an emergency order, may be issued that same day. At the ex parte hearing, the person seeking the order, who is also known as the petitioner, must present evidence in support of the petition.

“The petitioner must convince me that they meet the requirements of the stalking statute before the court can issue the ex parte order” explains Magistrate Porzio. Once this ex parte order is issued, the court is required by law to schedule a full hearing within ten days.

At the full hearing, both the petitioner and the opposing party, known as the

respondent, have the opportunity to present evidence to the Court. While the emergency order is in effect, the respondent must comply with all of the terms of the order. The order may restrict the respondent from approaching the petitioner, from communicating with the petitioner in any manner, or from entering the petitioner's residence or place of employment.

Many ex parte requests for emergency orders are not granted. People often appear in court without evidence that shows a pattern of conduct or without evidence that they are in danger of physical harm or mental distress. Oftentimes, the petitioner will attempt to rely on hearsay evidence, that is, will tell the court what someone else told them that the respondent said or did. Such hearsay evidence may not be sufficient to obtain a civil stalking protection order.

According to Porzio, "approximately 99% of the ex parte orders are settled without a full hearing. Most of the time the respondent agrees to stay away from the petitioner and obey the order of the court." But, those respondents who violate a Civil Stalking Protection Order will pay a price.

Persons violating such an order may be charged with a crime. The first conviction for such an offense is a misdemeanor which is punishable by up to six months in jail and a \$1,000.00 fine. If a respondent violates the protection order a second time, it becomes a felony of the fifth degree that is punishable up to twelve months in prison and/ or a fine of \$2,500.

A person violating such an order can also be found in contempt of court by the Judge who issued the order. A finding that the respondent was in contempt of court can lead to a 30 day jail sentence.

A Civil Stalking Protection Order will remain valid until the date set forth in the court order. The maximum duration of the order is up to five years but the victim has the right to file a motion for an extension before it expires. Under Federal Law the Court is not allowed to charge any filing fees for these cases.

If you believe that someone may cause you physical harm, or mental distress, then you have the right to file for a Civil Stalking Protection Order. Before filing for such an order, make sure that you have evidence that the

other person has engaged in a pattern of conduct that gave rise to your belief. Be prepared to present your evidence to a Magistrate or a Judge at two hearings, one of which will be held ex parte and one of which will be a full hearing, with both sides given the opportunity to present evidence.