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MISSISSIPPI
Access to Justice
COMMISSION

JUSTICE *for* ALL

FAQs: Domestic Abuse Protection Orders (DAPOs)

Where to File your DAPO

The Petition must be **notarized**. Make sure you **do not** sign the Petition until you are in front of a notary.

You can file your DAPO in a

- Municipal Court,
- Justice Court,
- County Court,
- Chancery Court, or
- State Military Court (if applicable)

in the county or city where the abuse took place OR where the abuser lives.¹ The court should give you a hearing date when you file the Petition, whether or not the court enters an Emergency (Ex Parte) Protection Order.

Do I pay Court Fees?

You will not be responsible for court fees, such as filing fees or fees for service of process on the Respondent.² Note that the Court may assess costs to you, including attorney fees, only if the allegations of abuse are determined to be without merit and the court finds that you are not a victim of abuse.³ The Court may also assess these costs to the Respondent after a hearing.

What to bring to Court

In order to help the Judge decide the issues raised in your Petition, bring any documents to support your claims:

- Photos of injuries or damaged property;
- Emergency Protection Orders;
- Arrest records and criminal history;
- Police reports;
- Hospital records;
- Witness statements;
- Divorce and custody orders;
- Adjudications of paternity (court documents that state who your child's other parent is), and
- Anything else that helps your claims.

Anyone who saw the abuse or your injuries may be a witness: a friend, family member, doctor, police officer, or even a stranger who saw the abuse. Some witnesses may not come to court unless they are given a subpoena which requires them to appear and testify. You should ask the court clerk about how to request a subpoena for your witness(es). There should be no fees for issuance or service of process of subpoenas.

If the people you subpoena do not come to the hearing, let the Court know. The judge can penalize them for not appearing, and you can ask the judge for a "continuance" to postpone the hearing until the subpoenaed people appear.

¹ Miss. Code Ann. § 93-21-5

² Miss. Code Ann. § 93-21-7(3)

³ Miss. Code Ann. § 93-21-7(3)

Prepare for Court

There are a few basic rules to remember when going to court:

- Be on time.
- Dress appropriately (as if you had a job interview). Look respectful and professional.
- Do not bring anyone under 18 into the courtroom. If you have children, do your best to find childcare on the day of your hearing. Be prepared to spend all day in court.
- Turn off your cell phone before entering the courtroom or leave it in the car.
- Speak respectfully to the judge and call him/her "Your Honor."
- Do not chew gum in court.
- Remain calm; take deep breaths if you feel yourself getting tense, and never lose your temper.
- Have your witnesses and documents with you and ready to present to the Court.
- Always tell the truth.
- It may help to have a short statement prepared which outlines what you want from the Court and why you want it. You can refer back to this statement if you "freeze up" or get flustered.

Additional tips and a video about preparing for court can be found at www.msatjc.org/preparing-for-court.

What happens at Court?

- You are not required to have an attorney, but you may get one to represent you.
- At your hearing, it will be up to you or your attorney to present all of the evidence and witnesses you have that support your allegations of abuse.
- You or your attorney will be responsible for asking your witnesses questions.
- You should plan to testify on your own behalf.
- The alleged abuser or their attorney has the right to question you and any witnesses you present.
- You or your attorney have the right to question the alleged abuser or any witnesses they present.
- Once you have put on your case and the alleged abuser has had an opportunity to defend and respond, the judge will determine whether to issue a DAPO.

SAFETY CONCERNS

Abusers often become angry when victims file for a DAPO against them. It should not be assumed that a DAPO will ensure your safety. In fact, the first few weeks after a DAPO is filed can be very dangerous.

Despite the protections a DAPO tries to give, some abusers may retaliate by:

- Physical violence or assault.
- Taking or hurting the children.
- Continuing to harass the victim or getting others to do it for them.
- Hurting or killing pets.
- Filing retaliatory cases in court against the victim.
- Threatening to take custody of your children if you pursue your claim.
- Lying and making false accusations about the victim in court documents, in public, or online.

If you decide to seek a DAPO and you believe you or your children would be at risk, you can say so in your Petition. This will allow you to leave your address off of the Petition for your safety.⁴ If you decide to file for a DAPO in Chancery Court, please emphasize you want your address to remain confidential and not appear in any electronic court filings.

If you file for a DAPO you will have to go to court, even if you receive an emergency order right away. It can be scary to know you will face your abuser in court. If you feel unsafe on your court day, you can request that the bailiff escort you to and from the courtroom. While you are waiting for your case to be called, you have the right to move seats if your

⁴ Miss. Code Ann. § 93-21-9(7)

abuser sits next to you and to receive help from court staff in keeping your abuser away from you. Tell the bailiff or any sheriff, police or security guard if you are afraid for your safety.

If you decide a DAPO is right for you, consider making a complete **safety plan** for you and your children before you file. For assistance in making a safety plan, please reach out to your local domestic violence shelter. The link to a list of shelters can be found on the Mississippi Attorney General's Office website at www.ago.state.ms.us/wp-content/uploads/2021/07/Resource-Directory-Map-Counties.pdf under the Bureau of Victim Assistance tab. The Resource Directory Map is searchable by county and has contact information for the specific shelter servicing your area.

Although a DAPO cannot guarantee your safety, it is a useful part of your safety plan because law enforcement officers are required by law to enforce DAPOs and make an arrest if your abuser knowingly violates the order.⁵

How long is a DAPO effective?

The answer to this question depends on what type of order you are requesting.

- **Ex Parte:** Ex Parte DAPOs are valid for up to 10 days, unless extended by the court. Ex Parte orders are emergency orders issued without a full hearing. If granted, your abuser will be notified that an order has been issued and given the date of the hearing where they are to appear and dispute your allegations of abuse.⁶
- **Temporary:** Temporary DAPOs can be issued only after a hearing to which your abuser will be summoned to appear to give evidence.⁷ Temporary DAPOs are valid for a maximum of 30 days if you and your abuser have children together.⁸ If there are no minor children in common, a Temporary DAPO can be valid up to 1 year.⁹
- **Final:** Final DAPOs can only be issued by County and Chancery courts after a hearing¹⁰ and can be good for as long as the judge determines is appropriate.¹¹

What to do if your DAPO is granted (awarded)?

If your DAPO is granted, make sure to have a copy in places that you or your children may be. This includes your work, your children's school or daycare, and your church. Keep a copy on your person and one in your car. Before you leave your DAPO hearing, be sure to talk to the clerk about when your DAPO expires and what your other options may be.

Appeals

All DAPO appeals, except appeals to the Mississippi Supreme Court, are filed in the Chancery Court.

- **Temporary Orders:** Temporary Orders from Justice or Municipal Courts may be appealed to Chancery Court. Those appeals will be heard *de novo*, which means the temporary hearing will be held in Chancery Court as if the temporary hearing in Justice or Municipal Court did not happen.¹² If you decide to seek an appeal of a Temporary Order, you must file a written Notice of Appeal with the Chancery Court within ten (10) days of the issuance of the Order in Justice or Municipal Court, and a copy must be provided to the Respondent and their attorney, if they have an attorney, as well as the clerk of the Justice or Municipal Court which issued the Order you are appealing.¹³ A Certificate of Service must accompany the Notice of Appeal.¹⁴
- **Final Orders:** Whether a County Court grants or denies a Final Protection Order, either party may appeal the County Court's decision to Chancery Court.¹⁵ If you decide to seek an appeal of a County Court's Final Order, you must file a written Notice of Appeal with the Chancery Court within ten (10) days of the issuance of the Order in County Court and a copy must be provided to the Respondent and their attorney, if they have an attorney, as

⁵ Miss. Code Ann. § 99-3-7(3)(a)

⁶ Miss. Code Ann. § 93-21-13(1)(a)

⁷ Miss. Code Ann. § 93-21-13(1)(a)

⁸ Miss. Code Ann. § 93-21-15(1)(b)

⁹ Miss. Code Ann. § 93-21-15(1)(b)

¹⁰ Miss. Code Ann. § 93-21-15(2)(a)

¹¹ Miss. Code Ann. § 93-21-15(2)(b)

¹² Miss. Code Ann. § 93-21-15.1(1)(a)

¹³ Miss. Code Ann. § 93-21-15.1(1)(b)

¹⁴ Miss. Code Ann. § 93-21-15.1(1)(b)

¹⁵ Miss. Code Ann. § 93-21-15.1(2)(a)

well as the clerk of the County Court which issued the Order you are appealing.¹⁶ A Certificate of Service must accompany the Notice of Appeal.¹⁷

The party appealing the Order must pay all court costs associated with the filing of the appeal, unless the Court allows the party to appeal *in forma pauperis* (indigent).¹⁸ If you are appealing the denial of a DAPO by a County Court, you will not be required to pay any costs of the appeal unless the Chancery Court finds, after a hearing, that the allegations of abuse are unfounded and you are not a victim of abuse.¹⁹

If the Chancery Court denies your request for a Final Order of Protection, you may appeal the decision to the Mississippi Supreme Court which may refer your appeal to the Mississippi Court of Appeals. Those appeals are governed by the Mississippi Rules of Appellate Procedure,²⁰ and it is strongly urged that you hire an attorney to represent you in either of these courts.

Resources

- Mississippi Attorney General Lynn Fitch has several resources for victims of domestic violence, including court forms and contact information for domestic violence shelters across the state. These resources can be found online at www.ago.state.ms.us/divisions/bureau-of-victim-assistance.
- Mississippi Access to Justice Commission www.msatjc.org
- Mississippi Coalition Against Domestic Violence www.mcadv.org
- North Mississippi Rural Legal Services www.nmrls.com
- Mississippi Center for Legal Services www.mscenterforlegalservices.org
- An interactive program that can be used to create a Domestic Abuse Protection Order can be found by visiting the Mississippi Attorney General website at www.ago.state.ms.us/divisions/bureau-of-victim-assistance or the Mississippi Access to Justice Commission website at www.msatjc.org.

¹⁶ Miss. Code Ann. § 93-21-15.1(2)(b)

¹⁷ Miss. Code Ann. § 93-21-15.1(2)(b)

¹⁸ Miss. Code Ann. § 93-21-15.1(4)

¹⁹ Miss. Code Ann. § 93-21-15.1(4)

²⁰ Miss. Code Ann. § 93-21-15.1(6)