

# A Guide to Peace Orders in Maryland



By Marc Emden, Esq.

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Self Published

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# Forward

The process for facing a peace order in the District Court can be intimidating and confusing. It is my hope that this short work will simplify and guide you through this process.



Respectfully yours,

*Marc Emden*

## About the Author

For over 35 years, Marc Emden has handled civil and criminal cases in Maryland and Washington, DC. Marc was born and raised in Silver Spring, Maryland, attended Northwood High School, graduated *cum laude* from the University of Maryland with a degree in Government & Politics, and received his law degree from the American University Washington College of Law in 1981. He currently practices law in Maryland with the law firm of Emdenlaw.

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## Contents

Section 1. What are Peace Orders?	12
Section 2. Grounds for Filing a Peace Order	15
Section 3. Process for Filing a Peace Order	17
Section 4. Types of Relief Provided by the Court	20
Section 5. Respondents: Were you Falsely Accused of Abuse?	25
Section 6. Basic Strategies and Tactics for Petitioners	27
Section 7. Violation of a Peace Order	29
Section 8. Shielding of Peace Orders	30

## Comparing Protective and Peace Orders

<b>Where?</b>	Protective Order ( <a href="#">FL Art. 4-501</a> et seq.)	Peace Order ( <a href="#">CJP Art. 3-1501</a> et seq.)
<b>What is it?</b>	Allows victims of domestic violence to receive protection and some kinds of relief	Provides protection to people experiencing certain kinds of abuse who are not eligible for protective orders
<b>How do these orders compare?</b>	They're very similar. Each is a 3-step process beginning with an interim order and moving to a hearing where both parties are present.	They're very similar. Each is a 3 step process beginning with an interim order and moving to a hearing where both parties are present.
<b>Who is eligible?</b>	<ul style="list-style-type: none"> <li>● Current and former spouses</li> <li>● Cohabitants for 90 days</li> <li>● A person related to the Respondent by blood, marriage, or adoption</li> <li>● A parent, stepparent, or stepchild (under certain circumstances)</li> <li>● Vulnerable adults</li> <li>● Person who has had a child with the Respondent</li> </ul>	Anyone who is <b>not</b> eligible for a protective order, but who is a victim of abuse
<b>How is abuse defined?</b>	<ul style="list-style-type: none"> <li>● Act that causes serious bodily harm</li> <li>● Act that places the Petitioner in fear of imminent serious bodily harm</li> <li>● Assault</li> <li>● Rape or sexual offense</li> <li>● False imprisonment</li> <li>● Stalking</li> <li>● Revenge Porn</li> </ul>	<ul style="list-style-type: none"> <li>● Act that causes serious bodily harm</li> <li>● Act that places the Petitioner in fear of imminent serious bodily harm</li> <li>● Assault</li> <li>● Rape or sexual offense</li> <li>● False imprisonment</li> <li>● Harassment</li> <li>● Stalking</li> <li>● Trespass</li> <li>● Malicious destruction of</li> </ul>

		<p>property</p> <ul style="list-style-type: none"> <li>● Revenge Porn</li> <li>● Misuse of telephone</li> <li>● Misuse of electronic communication</li> <li>● Visual surveillance</li> </ul>
<b>Which courts have jurisdiction?</b>	District and circuit courts	Only the District court
<b>How soon after the act must the Petitioner file for a protective order?</b>	Anytime after the act occurs	The act must have occurred within 30 days of filing the petition
<b>Are there any other requirements?</b>	No	The Petitioner must show that the act occurred and that it is likely to occur again
<b>Is there a filing fee?</b>	No	There is a \$46 filing fee and a \$40 service fee. The court may waive the filing fee for indigent Petitioners, but not the service fee
<b>What is the penalty for filing a false order?</b>	There are misdemeanor penalties for knowingly providing false information on the petition	There are misdemeanor penalties for knowingly providing false information on the petition
<b>What is the standard of proof for getting this order?</b>	<p><b>Interim and Temporary Orders</b>                      - “reasonable grounds to believe that the Respondent has abused a person eligible for relief (PEFR)”  <b>Final Order</b> - Preponderance of Evidence  <b>Permanent Protective Order After Conviction and Imprisonment</b> - A permanent protective order may issue against an individual that was</p>	<p><b>Interim and Temporary Orders</b>                      - “reasonable grounds to believe that the Respondent has abused a person eligible for relief (PEFR)”  <b>Final Order</b> - Preponderance of evidence that the Respondent committed the alleged act, and is likely to commit the act in the future.</p>

A Guide to Peace Orders in Maryland

	convicted and served a term of imprisonment of at least five years for specified underlying acts of abuse. This final protective order is permanent unless terminated at the request of the victim.	
<b>How long is the order in effect?</b>	<p>Judges may extend a temporary protective order from 30 days to 6 months. Temporary protective orders may be extended to effectuate service of the order, to provide protection, or other good cause.</p> <p>Final orders last up to 1 year with the option to extend for 6 months.</p> <p>The permanent protective order lasts until the victim requests termination.</p>	Up to 6 months
<b>What types of relief are available under the order?</b>	<p>All of the <a href="#">relief available</a> under the temporary order, and</p> <ul style="list-style-type: none"> <li>● Establishment of temporary visitation</li> <li>● Award of emergency family maintenance</li> <li>● Award of use and possession of jointly titled car</li> <li>● Counseling</li> <li>● Order for Respondent to surrender all firearms</li> <li>● Order for Respondent to pay filing fees and court costs</li> </ul>	<p>All of the <a href="#">relief available</a> under the temporary order, and</p> <ul style="list-style-type: none"> <li>● Counseling</li> <li>● Order for Respondent to pay filing fees and court costs</li> </ul>
<b>Will the court always order all of the relief</b>	The protective order may include any or all of the available relief	No. The court may only order the relief that is minimally necessary to protect the

<b>available?</b>		Petitioner
<b>Can the court order mutual orders?</b>	<p>The court can only issue a protective order to a person who has filed a petition. When both parties have filed, the court may issue mutual orders if it finds (by a preponderance of evidence that:</p> <ul style="list-style-type: none"> <li>● mutual abuse has occurred,</li> <li>● both parties acted as primary aggressors, and</li> <li>● neither party acted primarily in self defense</li> </ul>	<p>The court can only issue a mutual peace order if both parties have filed for one and the court finds (by a preponderance of evidence) that:</p> <ul style="list-style-type: none"> <li>● each party has committed, and</li> <li>● is likely to commit, in the future, an act of abuse as described in the law</li> </ul>
<b>What can the Petitioner do if the order is violated by the Respondent?</b>	<p>The Petitioner can file a Petition for Contempt against the Respondent. In addition, if the Respondent violates the “stay away” portions of the order, the Petitioner can file a criminal charge. Violation of the order is a fine of up to \$1000, and/or imprisonment for up to 90 days, for the first offense. For a subsequent offense, a fine of up to \$2500, and/or imprisonment for up to 1 year, may be imposed</p>	<p>The Petitioner can file a Contempt Petition against the Respondent. The Petitioner can also file a criminal charge. Violation of the order is a misdemeanor and on conviction a Respondent is subject to a fine for the first offense of up to \$1000, and/or imprisonment of up to 90 days</p>
<b>Can the police arrest the Respondent for violating the order?</b>	<p>If the “stay away” portion of the order is violated, the Respondent can be arrested with or without a warrant.</p>	<p>If the “stay away” portion of the order is violated, the Respondent can be arrested with or without a warrant.</p>
<b>Can the order be modified or rescinded?</b>	<p>A motion to modify or rescind the order can be filed in any court with jurisdiction, or where the order was issued</p>	<p>A motion to modify or rescind the order can be filed in the court where the order was issued</p>
<b>Can the issuance or denial of the order be</b>	<p>An order issued in the District court may be appealed to the Circuit court. The appeal will be heard “de novo”. An order</p>	<p>A peace order may be appealed to the Circuit court, “de novo”</p>

<p><b>appealed?</b></p>	<p>issued in the Circuit court may be appealed to the Court of Special Appeals</p>	
<p><b>What kinds of relief are available under the interim order?</b></p>	<ul style="list-style-type: none"> <li>● Respondent may be ordered to refrain from threatening or committing abuse</li> <li>● End all contact with Petitioner</li> <li>● Stay away from Petitioner’s home, place of employment, school, or residence of family member</li> <li>● If Respondent and Petitioner are living together, and child abuse is alleged, temporary custody of children may be given to Petitioner</li> <li>● If Respondent and Petitioner are living together, Respondent may be ordered to vacate their home, and temporary use and possession of the home may be awarded to the Petitioner</li> </ul>	<ul style="list-style-type: none"> <li>● Respondent may be ordered to refrain from threatening or committing abuse</li> <li>● End all contact with Petitioner</li> <li>● Stay away from Petitioner’s home, place of employment, or school</li> </ul>
<p><b>How long does the interim order last?</b></p>	<p>Until the temporary protective order hearing, or the end of the Second business day the office of the Clerk of the District Court is open after the interim order was issued, whichever is sooner</p>	<p>Until the temporary peace order hearing, or the end of the Second business day the office of the Clerk of the District Court is open after the interim order was issued, whichever is sooner</p>

## Section 1. What are Peace Orders?

In this section:

- What are Peace Orders?
- Types of Peace Orders?
- Impact of Peace Orders?

### What are Peace Orders?

Maryland's Peace Orders are a type of restraining order which can be issued by a Judge in order to protect a victim from an alleged abuser. Peace orders must be filed within 30 days of the time the abuser has committed a prohibited act (listed above) by the person abused. It may be filed against the abuser: a friend, acquaintance, neighbor, or a complete stranger.

If the abuser is either a spouse, ex-spouse, domestic partner, someone with whom he/she shares a child, someone they dated or had a sexual relationship with, or are a current or ex-boyfriend or girlfriend of the person seeking protection from the court, then you must file a "protective order" and not a "peace order."

Protective Orders offer similar protections to peace orders but have different filing requirements. You can find information on [filing a protective order here](#). In both situations, the alleged victim is known as the "Petitioner" and the alleged wrongdoer is known as the "Respondent."

Peace orders offer many kinds of protection for the Petitioner. For example, a Judge has the power to order a Respondent to stop threatening or committing abuse against the Petitioner, to stay away from the Petitioner, or to stop contacting him/her altogether. A peace order can also offer the Petitioner relief in other ways, as discussed in **Section 4** of this Guide.

The degree of protections offered to the Petitioner depend greatly on the evidence presented to the Judge and perhaps the timeliness of your filing. An attorney may be helpful in advising you about your case, filing for the peace order, or representing you in court.

For many of the same reasons, an attorney may be helpful in advising the person who has been accused of any wrongdoing (Respondent) about any defenses they make have in court. This advice may often cover whether the Respondent may have grounds to file a peace order against the original filer. These are known as "mutual peace orders."

## **Types of Peace Orders**

There are three types of peace orders: the first is an “interim peace order.” A district court commissioner (quasi-Judge) issues these orders when courts are closed, times outside of 8:30-4:30, Monday-Friday, and on federal holidays. This order lasts for about 48 hours or until the second day once the courts are open.

The second type is a “temporary peace order”. This order is the more typical order which a Judge initially issues at the end of 48 hours or if you have filed your petition with the court during normal business hours. The Courts enter these orders provided that it finds that you demonstrated “reasonable grounds” that you or the other person eligible for relief has been a victim of “abuse”. This order lasts for about one week or until the Final Peace Order hearing is held.

The third type is a “final peace order”. A Court may issue a final peace order if the Petitioner has proved grounds of abuse by higher standard called the “preponderance of evidence”. A FPO can last up to six months.

## **Impact of Peace Orders on Respondents**

There are many things that a Respondent should know before attempting to handle a peace order on his or her own. For example, Maryland courts are required to post peace order cases on the Maryland Judiciary Case Search. The Case search is a public database which lists all cases pending in Maryland courts.

Having a peace order filed against a person may affect them in the following ways:

- Disqualification from obtaining a security clearance for employment;
- Inability to obtain a lease. Landlords may be unwilling to rent to you if you are the Respondent in a peace order;
- Inability to secure employment. Employers may be reluctant to hire you;
- Inability to obtain favorable credit. Banks may choose not to extend credit to you;
- Incriminating yourself. Statements you make in the peace order case may be used against you if the police later charge you with a crime in the same matter or a related matter.
- Imperiling your immigration status.

Sometimes, peace orders are also the focus of future criminal prosecution. To avoid the legal impediment of having an order issued, you may try to negotiate a private agreement with the Petitioner.

## Section 2. Grounds for Filing a Peace Order

In this section:

- What is an Underlying Act?
- Who is Eligible to File for a Peace Order?

### What is an Underlying Act?

Maryland law defines an underlying act as:

- An act that causes serious bodily harm;
- Any act that places someone in fear of serious bodily harm or death;
- Assault and any non-consented to touching including: pushing, slapping, spitting, or shoving;
- Rape or any sexual assault;
- False imprisonment;
- Abuse of a minor child or a vulnerable adult;
- Harassment;
- Stalking;
- Trespass;
- Malicious destruction of property;
- Misuse of telephone facilities and equipment;
- Misuse of electronic communication or interactive computer service;
- The Posting of Revenge Pornography;
- Visual surveillance.

To obtain a peace order, a Petitioner can go to a District Court where he or she will provide a few minutes of testimony to a Judge or a commissioner. This Judge or commissioner will then decide whether an order should be issued. In addition, make sure that you provide the Judge with the specific facts about what happened to you. The more you can describe the particular ways you were injured or affected, the easier it will be for the Judge to understand your case. (See Article: “Protective/Peace Order what are they and how to get them” from [here](#).)

While a peace order can provide you with certain protections and relief from abuse, a court

order is no guarantee of your immediate safety. Call 911 if you are in immediate danger. Report any violations of a peace order to the police.

## Who is Eligible to File for a Peace Order?

You may file for a peace order as long as you and the alleged abuser:

- Are **not** current or former spouses;
- Have **not** lived together in an intimate relationship for at least 90 days during the past year;
- Are **not** related by blood, marriage, or adoption;
- Are **not** in a parent-child, or stepparent-stepchild relationship and have resided together for at least 90 days during the past year; (?)
- Are **not** in a caretaker-vulnerable adult relationship;
- Are **not** the parents of a child together; or
- Have **not** had a sexual relationship within 1 year before the filing of the petition.

In addition, even if the abuse did not take place in Maryland or the abuser does not live in Maryland, you can still file for a peace order in Maryland as long as you are a resident of the State at the time you file the Petition.

*(See §3-1501, Maryland Courts and Judicial Proceedings Article for Peace Orders and §4-501, Maryland Family Law Article)*

## Section 3. Process for Filing a Peace Order

In this section:

- Overview of the Process
- Proof
- Penalty for Filing a False Order
- Duration of an Order
- Modifying, Rescinding, or Extending Peace Orders

### Overview of the Process

There are four steps to getting a peace order:

- Step 1: Complete the Petition Form
- Step 2: File the Petition
- Step 3: Appear for a Temporary Hearing
- Step 4: Appear for a Final Hearing

#### Step 1: Complete the Petition Form

You may file a peace order petition in the county where the incident occurred or where the Respondent lives. You can file a petition for a peace order at a Maryland District Court, or the Department of Juvenile Services if the perpetrator is under 18 years of age.

There are fees for filing peace orders unless waived by the Court.

#### Step 2: File the Petition

The Petition for getting a protective or peace order is relatively simple and straightforward. You must complete a form called “The Petition.” This is the first step in the process to obtain a court order. There is a 30-day time limit from the date of the alleged incident(s) for filing peace orders in Maryland.

On the form, you will be asked to check off various boxes to indicate the type(s) of abuse you are contending happened to you. Make sure that the boxes you have checked are truly accurate. In addition, make sure that your written description on the form of the incidents which have led you to file is factually accurate and detailed since your statements may later be challenged in a court hearing by a lawyer representing the opposing side.

### **Step 3: Appear for a Temporary Hearing**

Once you have filed your Petition along with any photographs or other evidence you have of the abuse, the clerk will ask you to wait to see the Judge or commissioner.

When you appear before the Judge or commissioner, he or she will ask you questions about your petition. If the Judge decides that you have offered “reasonable grounds” for the order, a temporary or interim order will be issued by the court. (The Court has the power to offer both parties the right to change the TPO hearing date to a final peace hearing, if both parties wish to proceed to a final hearing. )

Once the temporary order is issued, the court then gives it to local law enforcement to be served on the Respondent. The order becomes effective once it is served, and it prohibits the Respondent from contacting the Petitioner or anyone else listed in the order.

At the Temporary Peace Order hearing, if the court believes that there may be evidence that a vulnerable adult or a child suffered abuse, the court may also request the Department of Social Services (Child or Adult Protective Services) to prepare a report based on its investigation. This report, and sometimes the caseworker who wrote the report, will be available to the judge and the parties at the final hearing.

### **Step 4: Appear for a Final Hearing**

A final hearing is scheduled usually about one week after the entry of the temporary peace order. This last hearing is called the “final peace order hearing”.

At the final hearing, the Judge hears from the Petitioner’s side first. The Petitioner and any witnesses called will testify. The Petitioner may have an attorney. The Respondent, along with his or her attorney, will also be allowed to present their case. You should expect to be cross examined by a lawyer representing the Respondent. The Respondent then presents his or her evidence. If the Judge finds by a preponderance of evidence that the Respondent has committed acts entitling you to relief, then a final order is issued.

If the Respondent has offered proof that he or she did not abuse the Petitioner, then the judge will deny the Petition.

## **Proof**

If you have been injured by the act of someone else, you should provide photographs or medical reports of your injuries to the Judge. In addition, you should preserve any electronic evidence which is relevant to your case. This may include voicemails, text messages, or emails.

## **Penalty for Providing False Information**

All of your statements in the Petition and in court are made under oath. If your statements are false, you could be prosecuted for filing a false statement. A person found guilty of filing false information is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both. (see Md. Courts and Judicial Proceedings Code Ann. § 3-1503.1)

## **Duration of an Order**

An interim peace order may last one to two days.

A temporary peace order lasts for about one week or until the hearing for the final peace order occurs. It can not last longer than 30 days.

A final peace order may be effective for a period not to exceed 6 months, unless extended pursuant to a modification. The order should state the maximum time for which the order is effective.

## **Modifying, Terminating, or Extending Peace Orders**

Anytime during the existence of an order, the Petitioner may file a request to have the order extended, terminated, or modified, if new grounds have occurred.

## **Section 4. Types of Relief Provided by the Court**

In this section:

- Standards of Proof
- Types of Relief -Interim and Temporary Peace Orders
- Types of Relief -Final Peace Orders

### **Standards of Proof**

There are varying degrees or standards of proof required for each type of peace order. To determine the type of peace order and necessary levels of protection for the Petitioner, the Judge will review the evidence presented from both the Petitioner and the Respondent.

To issue an interim or temporary peace order the Court must find “reasonable grounds”- that the Respondent committed one of the “prohibited acts” list above.

Final peace order cases in Maryland require the Court to find by a “preponderance of the evidence” that the alleged abuse occurred. This phrase means that the Court must find that the commission of the abuse was more likely than not to have occurred. Another way to think about the standard of proof in a final peace order case is that there is a 51% likelihood the alleged conduct occurred. (Proof beyond reasonable doubt is calculated at a higher than 90% likelihood.) The court must also find that the Petitioner is “likely to commit a prohibited act in the future.”

The Court has the power to offer the following relief to a Petitioner who has prevailed at each stage of the process:

### **Types of Relief - Interim and Temporary Peace Orders**

In an interim or temporary peace order, a Judge can order the abuser to:

- Stop abusing you or threatening to commit any act against you.
- Stay away from you and to not try to contact you or harass you at your home, school, job, or the place where you may be staying, stay away from your child’s school, and from your family members’ homes.
- Stay out of your house and your surrounding property.

*(Source: Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-1504)*

## **Types of Relief - Final Peace Orders**

In a final peace order, a Judge can order any of the above, and can also:

- Order the respondent to refrain from committing or threatening to commit any abusive act against the petitioner.
- Order the respondent to refrain from contacting, attempting to contact, or harassing the petitioner.
- Order the respondent to refrain from entering the residence of the petitioner.
- Order the respondent to remain away from the place of employment, school, or temporary residence of the petitioner.
- Direct either party to participate in professionally supervised counseling or, if the parties are amenable, mediation.
- Order either party to pay filing fees and court costs.

*(Source: Md. COURTS AND JUDICIAL PROCEEDINGS Code Ann. § 3-1505)*

## **Section 5. For Respondents: Were You Falsely Accused of Abuse?**

In this section:

- Basic Strategies for Respondents
- Consenting to a Peace Order

### **Basic Strategies for Respondents**

Without sufficient proof of abuse, a Judge will not issue an order against you. If you believe the Petitioner has falsely filed this action against you, you have the right to offer proof of your lawful conduct at the hearing. This proof could consist of favorable email or text messages, as well as the presentation of witnesses on your behalf.

In addition, if you have been named as a Respondent in a peace or protective order case, remember that you could also be facing criminal charges for the same acts. In addition, if the police attempt to interview you, they may well use whatever information or explanations you give them against you in either the criminal or the restraining order case.

Second, do not text or leave voice mail messages.

Third, preserve (do not delete or destroy) any evidence like electronic messages or anything else you might need for court.

Fourth, there are also many situations in which you can draft a private agreement between yourself and the Petitioner. These agreements can help you avoid the many risks that come about from the public disclosure of your peace or protective order matter.

These private agreements consist of a contract between you and the Petitioner to prohibit contact between each other, for example, and which provide for financial penalties for any violation. Private agreements thereby avoid the risk that a court order could be issued against you.

There are many other strategies which you can employ to provide you with the best chances of success. Your lawyer will help you with these.

## **Consenting to the Entry of a Peace Order**

Consider consenting to the entry of a peace order. Consenting to the entry of an order means that you have consented to all of the prohibitions referred to in Section 4 against you. It also means that the court has not made any findings of abuse against you.

Consenting also avoids your having to testify in court. There are advantages and disadvantages with this approach. Consult with your lawyer to decide on the best approach, as a solution depends upon the circumstances surrounding your case.

## Section 6. Basic Strategies for Petitioners

In this section:

- Basic Strategies for Petitioners

### Basic Strategies for Petitioners<sup>1</sup>

Undoubtedly, the circumstances in which you choose to file a petition for a peace order will be stressful for you and your family. This section offers just a few basic strategies for Petitioners to help navigate through the uncertainty of going to court.

Draft a summary of all of the events leading to the filing of the petition to assist your lawyer in court.

Take photographs of relevant evidence, the area of your neighborhood, your room, or location where the acts complained of may have occurred.

Obtain complete names, physical addresses, and email addresses of useful witnesses for court.

Locate witnesses who can testify to your character for peacefulness or for truthfulness, for the court hearing.

**T**hese strategies apply equally to either petitioners or respondents.

## **Section 7. Violation of a Peace Order**

In this section:

- Violation of a Peace Order

If a Respondent violates any of the terms of a peace order, for a first offense, may be given a fine not exceeding \$1,000 or imprisonment not exceeding 90 days or both; and for a second or subsequent offense, a fine not exceeding \$2,500 or imprisonment not exceeding 1 year or both.

## Section 8. Shielding of Peace Order

In this section:

- Shielding of a Peace Order

Under certain circumstances, the person against whom a peace or protective order case was filed can keep the public from seeing information about the case. If the peace or protective order was denied or dismissed, either side can file a Request to Shield Records. If fewer than three years has passed since the date of the denial or dismissal, the Respondent must also sign a General Waiver and Release. Your signing this release means that you've given up your right to sue the other party for any act arising in this case. The Respondent must mail a copy of the petition to the Petitioner, or the court may serve it if you do not know the address of the other party.

Once the Court receives the Petition to Shield, it will schedule a hearing. Both the Petitioner and the Respondent will receive a Notice of the hearing, and both parties have a right to be present at the hearing.

The Court will grant the shielding request if all of the following are true: (1) the petition was denied or dismissed at either the interim, temporary, or final stage; (2) that a final protective order or peace order has not been previously issued against the Respondent in a proceeding between the Petitioner and the Respondent; (3) that there is not currently pending an interim or temporary protective order or peace order issued against the Respondent in a proceeding between the Petitioner and Respondent; and that there is not currently pending a criminal charge against the Respondent arising from the alleged abuse against the Petitioner.

If the Petitioner shows up at the hearing, he/she will be given an opportunity to explain why the Respondent's Petition should be denied. The Court may deny the shielding for good cause. In determining whether good cause exists, the Court will balance the privacy of the Respondent and the potential danger of adverse consequences to the Respondent against the potential risk of future harm and danger to the Petitioner and the community.

Consented to orders. These orders may be shielded; however, there are now special rules which apply to whether and when a court will grant a petition to shield a final order to which the parties consented. You will need to consult with an attorney to learn more about this process.

If the court has granted a final order after it has held a hearing, then you can never shield the case.

## **FINAL THOUGHTS**

Whether you are a Petitioner or a Respondent, every case is different, and there is no single right way to handle your case. Thoughtful preparation before any court appearance will always give you the best chances of success. It is my hope that the information in this eBook will help you to be better informed about this process.