

Final Relief From Abuse Order Hearings

The plaintiff is the person that asked for the order and the defendant is the person they are trying to get an order against. The plaintiff will sit at the table closest to the jury box. The advocate will sit next to the plaintiff, but closer to the defendant.

The judge usually will say, this is the matter between Jane Doe and John Doe, give the case number, and then ask the parties to state their name. The judge will then ask the plaintiff if they want a final order. If the answer is yes, the judge will usually ask if everything you wrote in your affidavit is true. If the defendant is at court, the judge will ask if the defendant is opposed to having an order issued. If the defendant is not opposed an order will be issued. This is called an order without findings, which means that no testimony was heard in the case and the parties agreed to the order.

If the defendant does not want an order, both the plaintiff and the defendant are placed under oath. The judge begins with the plaintiff and asks why they want an order issued. At this point the plaintiff needs to tell the judge about the abuse. They are listening for: 1.) was there physical harm or attempted physical harm 2.) fear of immediate serious bodily injury/harm 3.) harm to the children—what did they hear, see, were they home when the abuse occurred? Were they also harmed physically? The judge may ask questions to get more information. When the plaintiff is finished, the judge will ask the defendant to respond. When the defendant is finished, the judge should give the plaintiff an opportunity to reply to what the defendant has said. If the judge does not automatically give you a chance, you can ask for permission to clarify things. At this point the judge (and the two side judges) will usually leave the room to make their decision.

This type of order is considered an order with findings of abuse. This means that formal testimony was taken and the judge decided that abuse occurred. An order with findings can be used in future child custody or divorce cases. An order without findings cannot be used in these circumstances.

If the defendant does not come to court, you can still get an order. The judge may swear you in and take testimony from you, but the order that is issued is considered to be without findings because the defendant was not present. You will also be responsible for having the order served on the defendant, just like the temporary order.

Some things to remember:

It is very important not to interrupt when the judge or the defendant is speaking. This can be very difficult, especially if the defendant is saying things that are not true.

If there are minor children, a temporary custody and visitation order will be issued. Try to have an idea about what you would like to see happen. Do you want visitation supervised? Do you know someone who would be willing to be present when the defendant is having a visit?

If the defendant comes to court with an attorney, you have the right to ask for a continuance, where the case is postponed, usually for a week, so you have time to hire an attorney to represent you. If you do not have money for an attorney, Legal-Aid is sometimes available to help.

You are not allowed to testify to hearsay. This means that you cannot tell the court anything that you have not personally witnessed/experienced. If the defendant said that he was going to hurt you or your friend, your friend has to be in the courtroom to tell the judge about it.