

Evidence for Petitioners

“Evidence” is what you present in court to prove that the respondent has harmed or may harm you (and/or your child). Evidence can be your statements (called “testimony”), documents, photos, or objects such as torn clothing or a weapon. The following are examples of the types of evidence that can be used to show the judge that you are in danger and need an order of protection.

Your Testimony

You should tell the judge why you want the order of protection, including why you are afraid of the respondent. You should include information about times when the respondent abused you. If there have been many abusive times, you should focus your testimony on the most recent and the worst.

- Describe each time you were abused by telling “who, how, when and where”.

You can tell the judge about:

Abuse

Example: “The respondent and I were in our house on June 1, 2004. He got mad and called me names like “b#@%\$.” He shoved me, my head hit the wall and I blacked out. My child saw it all. I did not go to the hospital because I was afraid.”

Threats of Abuse

Example: “I was stopped at the stoplight in my car when he pulled up next to me. When I looked over, he pointed his finger at me like he was pretending it was a gun and he ‘shot’ me.”

Past Protective Orders

Example: “I had a protection order against the respondent in Wyoming in 2000. I dismissed the order because respondent promised he would get counseling. He didn’t and now I know that I need to keep the order of protection until he finishes counseling and changes his behavior.”

You should tell the judge about protective orders you have dismissed and explain why. You should make it clear that you do not intend to dismiss the protective order you are requesting now until you feel sure that you no longer need it.

Violence Against Others and Animals

Example: “The respondent beat up his sister in 1998 in Dillon. He punched her and gave her a black eye. He was arrested and convicted of assault. Also, he would play a “game” in front of our son. He would pull the cat’s tail until the

cat tried to scratch him – then the respondent would punch and kick the cat.”

Testimony of Witnesses

You can ask people who have seen or heard the abuse (and/or threats), or saw you after the abuse and/or threats, to testify at the order of protection hearing. The following are examples of people that you may ask to testify:

- Family, Friends, Neighbors, Public
- Medical Providers, Counselors, Dentists
- Police Officers, Victim Advocates
- Teachers, Clergy

Physical Items

You can present physical items as you testify in order to prove that you have been abused (and/or threatened). You should ask the judge to “admit” such items as evidence. Some examples of items include:

- Physical injuries
- Torn/bloody clothes
- Damaged property
- Police reports
- Medical records
- Photographs
- Bills/Invoices
- Letters, emails
- Voicemail messages

How can I make sure that the judge considers my evidence?

The judge will consider the evidence that s/he is allowed to consider based on the law. It is likely that the Respondent (or his attorney) will “object” to some of your evidence. If that happens, don’t worry - just be prepared to explain to the judge why you think the evidence should be considered.

For more information on how to present your case in court, see the brochure “Order of Protection Hearings – How to Represent Yourself.”

How do I get more help?

Montana Legal Services Association (MLSA) provides free civil legal help to low-income people. Contact us to see if you qualify:

- Apply anytime online at mtlsa.org;
- Call our Helpline at 1-800-666-6899 (Helpline hours are limited).

What help can I find at MLSA?

- Legal advice and representation;
- Referrals to volunteer attorneys and other providers;
- Self-help clinics and materials.

www.MontanaLawHelp.org

Need legal information or forms? Visit www.MontanaLawHelp.org.

Can't find what you want? Use LiveHelp. Click on the LiveHelp picture and get help finding the information you need.

www.MTLSA.org

Find copies of all our brochures online. They are all available for free download!

This pamphlet is meant to give basic legal information, not legal advice about your problem. The law changes often and each case is different. We recommend you talk to an attorney about your legal problem.

Montana Legal Services Association

Orders of Protection: Evidence



Providing, protecting, and enhancing access to justice.

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