
What Does the Law Say?

A judge can only issue a “no stalking” order if you prove that the Defendant “stalked” you OR sexually assaulted you. **It will be up to the judge to decide whether the facts you describe meet the requirements of the law.**

To prove “stalking” you have to prove that the Defendant did **ALL FOUR** of these things:

1. The Defendant either **followed you**, or **“threatened” you**, or **hid** somewhere planning to attack you; **AND**
2. The Defendant had **no legitimate reason** to do this; **AND**
3. The Defendant has **done this more than once** over a period of time; **AND**
4. What the Defendant did was **serious** enough to either cause an average person to fear for his or her safety OR cause an average person substantial emotional distress.

“Threatened” you means something that would make an average person think that the Defendant was going to sexually assault you, physically hurt you, or kidnap you. Mean words or insults or harassment are **NOT** enough to prove threatening behavior. For example, a judge usually cannot issue an order just because someone is calling you names or posting nasty things about you on Facebook.

To prove a “sexual assault,” you must prove that the Defendant did something defined in the criminal laws as an illegal sexual act. Under this law, some things you might think of as sexual assaults (like touching a woman’s chest without her consent) are not covered.



When, What, Where

No Stalking Order

- Does **not** involve family members, people you have lived with, and people you have dated
- Must be filed in the Civil Division
- Must be filed during court hours

Relief from Abuse Order

- Does involve family members, people you have lived with, and people you have dated
- Must be filed in the Family Division
- May be filed after court hours

Vermont Judiciary Online
<http://www.vermontjudiciary.org>



Asking for
“No Stalking” Orders
in the Civil Division

If you are considering asking for a **“no stalking” order**, please read this entire brochure before you file your request. It will help you understand how the law works. The word “Plaintiff” means the person asking for the order. The person you want an order against is the “Defendant.”

This brochure provides general information. You may wish to speak with an attorney.

How the Process Works

To ask for a “no stalking” order you have to fill out some forms. One is called a “complaint” and another is called an “affidavit.” The affidavit is where you explain what has happened that makes you feel you need a court order. You have to swear that you are telling the truth when you sign it. After you fill in these forms, a judge will read them. The judge will decide whether your facts meet the requirements for a temporary emergency order.

If the judge does NOT issue an emergency order:

1. You can still ask to have a hearing so that you can testify in court to try to prove your case. If you ask for a hearing, the court will send your complaint, affidavit, and hearing notice to the police so they can deliver a copy to the Defendant. This is called “serving” the Defendant.
2. If you decide not to ask for a hearing, your complaint and affidavit stay confidential and a copy does not go to the Defendant.

If the judge DOES issue an emergency order:

1. It is only a temporary order. A hearing will be scheduled for a later date so that you and the Defendant can both testify in court and tell your sides of the story.
2. The court will deliver a copy of your complaint, your affidavit, and the temporary order to the police. The police will then deliver these to the Defendant. This is called “serving” the Defendant.
3. **UNTIL THE POLICE SERVE THE PAPERWORK, THE TEMPORARY ORDER IS NOT YET IN EFFECT.**

At The Hearing

The hearing is not based just on what you wrote in your affidavit. You will have to testify. You may also bring other people to testify about what happened. If the Defendant comes to the hearing, he or she also gets to testify and may bring witnesses. These hearings are public. Then the judge will decide whether the evidence meets the requirements for an order.

If the judge decides there is not enough evidence for an order, the temporary order will end and the case will be dismissed.

If the judge issues an order, it will be for a limited period of time. You and the Defendant will both get a copy of the order right after the hearing if the Defendant is present. If the Defendant is not present, the police will have to deliver a copy to the Defendant before the order is in effect.

If the Judge Does Not Issue a “No Stalking” Order

You may be disappointed if the judge does not issue an order. It is the judge’s job to decide whether what happened meets the requirements for an order. Remember that the stalking law is to protect people from being physically hurt, sexually assaulted, or kidnapped. The stalking law does not stop people from being rude to you, swearing at you, yelling at you, criticizing you, or harassing you.

Other Useful Information

- You are responsible for giving the court information about the Defendant, including his or her birthdate if you know it.
- Contact the court to find out where the Family and Civil Divisions are located in your county or go to <http://www.vermontjudiciary.org>.
- Any statement of facts you write will need to be notarized, so you should bring proof of identification with you when you go to court to file.