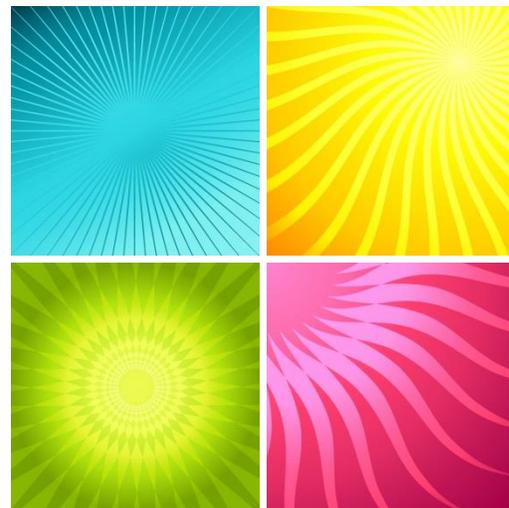


# EASING REENTRY

for Women  
in Philadelphia



Civil Legal Needs  
Part 2:  
Family Law

*The Women's Law Project is a legal advocacy organization based in Pennsylvania. Founded in 1974, its mission is to create a more just and equitable society by advancing the rights and status of all women throughout their lives. To this end, the Women's Law Project engages in high-impact litigation, public policy advocacy, and community education.*

*The Women's Law Project is grateful for the helpful advice and guidance of the many members of the Philadelphia public interest law community who contributed to this publication. Special thanks go to Elizabeth D'Ancona for her contribution while volunteering for the Women's Law Project.*

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# Family Law

The Women's Law Project prepared two booklets to help women reentering society from incarceration with their many legal needs. *Easing Reentry for Women in Philadelphia: Civil Legal Needs* contains two parts, each in its own booklet.

*Part 1: General Reentry* provides general reentry information and resources. *Part 2: Family Law* provides information on child custody, DHS custody, child support, domestic violence, and divorce. We hope that you find the information in this booklet helpful.

The information in these booklets is sometimes complicated. You do not have to read the booklets all at once. Pay special attention to the information **in bold** print.

**This booklet is intended to provide general legal information and is not meant to be used as legal advice.**

**Start with the “Table of Contents” and go to the page with the topic you need to address.**

Each section of this booklet starts with a checklist. This checklist asks you many questions to help you get organized and figure out what you need to do. Choose the questions you want to learn more about. Then, go to the page listed below each question to learn more.

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# Child Custody

Where do you begin?	See below.
• Are your children in foster care or the DHS child welfare system?	See below.
• Are your children living with someone else, and DHS is NOT involved?	See below.
• Do you want to change an existing custody order? Or start a new custody petition?	Go to page 2.
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## Where do you begin?

While you were in prison, your children were living with someone else. The steps you must take to visit or live with your children on your release depend on how your children were cared for.

### Are your children in foster care or the DHS child welfare system?

If your children are in the DHS child welfare/foster system, see the next section of this booklet. It explains how the DHS system works. Learn the steps you must take to visit or live with your children in the future.

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### Are your children living with someone else, and DHS is NOT involved?

If your children are not in the DHS system, you must find out if there is a court order for custody. If you don't know, **call Philadelphia Family Court at (215) 686-3509 to find out.** If so, look at the order to know what your rights are. A custody order says how much time each parent spends with the child (physical custody). It also says who makes major decisions about the child (legal custody).

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**Do you want to change an existing custody order? Or start a new custody petition?**

You may want to ask the court to change the custody order. Or if there is no order, you may want to file for custody. You must decide if you want to file for primary or partial physical custody.

**What are the choices for custody?**

- **Primary physical custody** means that you have your children most of the time.
- **Partial physical custody** means that you spend less than half the time with the child. In this case, the child spends more than half of the time with the other parent or guardian.
- **Supervised physical custody** means that the parent and child’s time together must be supervised. The court appoints someone to supervise the visits. If you want to see your children more than the order permits, you must file a petition to modify the custody order.

If you do not have a place to live with your children, you may want to file for partial custody so that you can spend some time with your children. You can always file to increase your time with your children or to have them live with you at a later time. A custody order is never permanent.

If you left your children with someone without a custody order, you might be able to easily get your kids back. If there is no custody order, both parents have equal right to custody of their children. Parents have greater rights than third parties (non-parents). If there is no court order giving custody of your children to another person or DHS, you should

be able to see your children when you are released. You do not have to file for custody of them. If you encounter any problems when you go to pick up your children, you may need to file for custody. You may wish to talk with a lawyer.

If you need a lawyer, you may call the Philadelphia Bar Association’s Lawyer Referral and Information Service at (215) 238-6333. Philadelphia Legal Assistance has free lawyers. Call (215) 981-3800 to see if you are eligible. For more information, visit <http://www.philalegal.org> on the Internet.

**How does the court decide custody?**

Child custody in Pennsylvania is based on the **best interest of the child**. The court will consider all factors that may impact the child’s physical or emotional well-being. **The court will give more weight to factors which affect the safety of the child**. Here are some of the factors the court will consider:

- Which parent is more likely to allow frequent contact with the other parent
- Past or present abuse or risk to the child by a parent or a member of the parent’s household.
- What each parent does to take care of the child
- Which parent’s home is more stable for the child’s school and family life
- The preference of the child, if the child is old enough and mature enough to make this decision
- Attempts of a parent to turn the child against the other parent, except in cases of domestic violence where reasonable safety measures are necessary to protect the child from harm

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- Which parent is more likely to maintain a loving, stable, consistent and nurturing relationship with the child enough to meet the child’s emotional needs
- The level of conflict between the parents and the ability of the parents to cooperate with one another. A parent’s effort to protect the child from abuse by the other parent is not evidence of unwillingness to cooperate
- Which parent is more available to care for the child or able to arrange for child care
- History of drug or alcohol abuse by each parent or a member of a parent’s household
- The court must also consider criminal charges and convictions, mostly relating to violent crimes, but also including alcohol and drug-related offenses. The court must consider these offenses if they were committed by you or anyone living in your household. If you fall into this category, the court will do an evaluation. The goal is to determine whether you or the household member who committed the offense poses a threat or risk of harm to your child. The court may order further evaluations or counseling by a mental health professional
- Any other relevant factor

## **How do you file for custody in Philadelphia?**

To file for custody in Philadelphia County, your child must have lived here for at least 6 months. Until 6 months have passed, you must file in the county where the child lived before. In Philadelphia, go to the Domestic Relations Division of Family Court. The court address is 34 S. 11<sup>th</sup> Street. It is located between 11<sup>th</sup> and 12<sup>th</sup> Streets in an alley between Chestnut and Market Streets. Go to the Custody Intake Unit in Room M-6. You will fill out some forms. The staff will use the information on these forms to prepare your custody petition for you.

### **You need to know:**

- The current address of your child’s caregiver (or his/her last known address)
- The child’s date of birth
- Addresses where the child has lived for the past five years
- Even if the child’s father has not had a role in your child’s life, you will need his information (name, last known address).

### **Bring with you:**

- Any other custody orders, including Protection from Abuse or Dependency Court Orders
- Picture identification
- Your welfare card or proof that you receive social security, if you plan to ask the court to waive the filing fee.

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**How much does it cost?**

There is a fee to file for custody. At the time this booklet was written, it was \$90.38. The Court sometimes changes the fee so it is important to check with the court before filing to get the correct amount.

If you are unable to pay the fee, you can ask the court to excuse you from paying it by completing and filing an *In Forma Pauperis* (IFP) Petition. The court will review your petition and decide whether to excuse you from payment. If it does, you will not have to pay the fee. If you are on welfare, bring your welfare card. If you are on social security, bring proof. If you work, bring pay stubs to show that you cannot afford the fee.

**What is the last step in filing a custody petition?**

Look over the custody petition the staff has prepared. Make sure there are no mistakes and that all the information is accurate. Tell the staff if something is wrong or missing.

*Blank custody petitions and IFP forms with instructions for filling them out and filing them are available on the Women’s Law Project’s website at [www.womenslawproject.org](http://www.womenslawproject.org) under Helpful Resources or on the website of PA LawHELP at [www.palawhelp.org](http://www.palawhelp.org). If you prefer, you may fill them out and take them to court to file. If you would like to speak to a lawyer, please see the free legal resources section in the back of this booklet for a list of legal services offices.*

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**What happens after you file a custody petition?**

The Court will send you a notice with a date and time for a custody conference. Write down the points you want to make at this conference. Be clear about what you want. If you want primary custody of your children, say so. If you want partial custody, ask for a specific arrangement.

If the parties cannot agree on custody, the court may require each parent to submit a parenting plan to help it make a decision. The plan must include a detailed description of how the parents will make decisions about the child and a schedule of when the child will live with each parent. There is a special format for how your plan must be presented to the court.

If a hearing in front of a judge is scheduled, remember that the judge will be interested in what is in the child’s best interest, not the parent’s best interest. The judge will want to know why you are the better parent for custody based on the factors listed on pages 3-4.

Remember to be respectful when you are in the courtroom. Only speak to the judge. Do not argue with the other party claiming custody of your children. The judge will make the decision after hearing both sides.

If you are unhappy with the judge’s decision, you may file a *request for reconsideration*. You may also file an appeal, **but it must be filed within 30 days** of the date of the court order. This is very difficult to do without an attorney. If, after time passes, you believe the custody order is no longer in the child’s best interest, you may file a petition to modify the custody order. This can be done any time after a Judge’s decision.



## What does it mean if your child is in DHS custody?

When DHS takes custody of your child, there is a court process. You have a right to a lawyer and to participate in your hearings. In most cases, the goal is to help you get your child back (“reunification”), and DHS must provide you with support to reunify. But the law puts limits on how long DHS will work with you on reunification. If DHS rules out reunification, they will look for another permanent home for your child, usually through adoption or permanent legal custody (PLC).

### Things you need to find out:

- Do you have an open dependency case?
- Who is your DHS worker?
- Who is your lawyer?
- When is your next hearing?

Call Dependency Court Operations (DCO) at 1801 Vine Street, where all child welfare hearings are held, at 215-686-4119. DCO can give you contact information for your lawyer and tell you when your next hearing is. If you don’t have a lawyer, you can ask DCO how to get one, or you can call Community Legal Services’ Family Advocacy Hotline at 215-981-3765. You can contact DHS at 215-683-6100 or 215-683-4DHS(4347) to find out who your assigned DHS worker is. Usually you will have two workers: one from DHS and one from a foster care agency. DHS can tell you who both of your workers are.

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## How long do you have to reunify with your child? What is ASFA?

The Adoption and Safe Families Act (ASFA) is a law that says that if a child has been in foster or kinship care for 15 of the past 22 months, DHS must file to terminate parental rights (TPR) so that the child can be adopted. But the Agency does **not** have to do this in certain situations, like if your child is living with a relative or if adoption is not a good idea for your child. This decision is made on a case-by-case basis. The most important thing to know about ASFA is that you do not have a lot of time to meet your goals and reunify with your child, so it is important that you start as soon as possible.

## What are your rights if your child is in DHS custody?

The law gives you a lot of rights when your child is in DHS custody. First, you have a right to **have a say where your child is placed**. If you have a relative or family friend who can care for your child, tell the DHS worker assigned to your case. DHS must try to first place children with relatives. You also have the right to **visit with your child**. Unless a judge said you can't, you have the right to regular, in-person visits with your child, even if you are in jail. You have the right to **know how your child is doing and where your child is living**.

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The Agency must keep you informed about your child’s health, education, and development. You have the right to **help make plans for the family**. A Family Service Plan (FSP) will be made and you will be given goals to meet. DHS must involve you in making the FSP, and you should have a say about what goals and supports will help your family. You have the right to get **help to meet your goals**. DHS must make “reasonable efforts.” That means that DHS should help you stay in contact with your child and support you in meeting your goals. Finally, you have the right to **an attorney**. If you can’t afford an attorney, you can request that the court appoint you one. Your attorney must communicate with you and represent your wishes in court. You can also **participate in court hearings**. If you can’t be taken to court for your hearing, ask to participate by phone.

## What can you do to reunify with your child?

The most important thing you can do to reunify with your child is to work on having a strong relationship with your child. **You should visit with your child as much as possible**. You should also contact your child on a regular basis by phone, letter or cards. It is also important that you **work on your Family Service Plan (FSP) goals**. DHS will ask you to do things like take a parenting class or go to drug treatment. It is important that you do anything you can to work on your goals while you are in jail, because you only have a limited time to complete your FSP. You should also **stay in touch with your DHS worker, your foster care agency worker, and your attorney**. It’s really important to tell everyone about your progress and also ask for

help in meeting your goals when you need it. If you can’t call your DHS worker, you should write to the DHS worker as much as possible. Be sure to let your worker know how you are doing, and also to ask the worker how your child is doing and what you can do to help your child while you are apart. You have a right to **participate in decisions about your child**. As much as you can, you should try to participate in medical, educational, and other decisions about your child’s well-being.

## What will happen at your Family Court hearings?

There are several types of family court hearings: shelter care, adjudicatory, disposition, permanency reviews, and termination of parental rights hearings. The **shelter care** hearing is an emergency hearing that usually happens within 3 days of your child being put in DHS custody. The shelter care hearing is for the court to review DHS’ request to take custody of a child. At the **adjudicatory hearing**, which is held within 10 days of the shelter care hearing, the court decides whether your child is “dependent,” which means the judge will decide if there is evidence that your child was not receiving proper parental care. If the judge decides your child is “dependent,” then on the same day the court will hold a **disposition hearing**, where it decides whether your child should stay in DHS custody, and also makes other orders about what should happen with the child and the family. After that, every three to five months there will be a **permanency review hearing**, where the judge will find out about how the child is doing and also how much progress is being made toward reunification.

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## What can you do to prepare for release from prison?

Once you find out you are being released from prison, you should notify DHS so that they can help you with your plans to reunify. DHS must offer you help in completing your goals and reunifying with your child. For example, DHS can: refer you to treatment programs, help you get benefits, help you find housing, and help you get the right educational and mental health treatment for your child, and offer you regular visits. It is important that you cooperate with the services DHS offers, and **go to every single visit with your child**. If you miss visits it will be harder to get your children back. If you need transportation to the visits, ask your DHS worker for train or bus tickets to get to the visits. **If you must miss a visit, call the DHS worker and foster care worker before your visit and explain why you cannot make it.**

## What if the father of your children has abused you?

If you are a victim of domestic violence and your abuser is the father, you can ask your DHS worker to keep your address and phone number secret from him. Your DHS worker can also schedule separate FSP meetings so you do not have to go together. You can ask the court to order separate, supervised visitation for your abuser so you do not have to interact with him and the kids won't be alone with him.

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## What is permanency?

Permanency is the idea that children have the right to be part of a family and grow up in a stable home. In most cases, the first permanency goal is reunification between the parent and child. If reunification is not possible, the law says that DHS must find another permanent home for a child, usually through adoption or permanent legal custody (PLC).

## What does termination of parental rights (TPR) mean?

Termination of Parental Rights (TPR) is a legal decision a judge makes to forever end the parent/child relationship so that the child can be adopted. The adoptive parent then becomes the child's legal parent. Your parental rights can be terminated voluntarily (meaning you agree) or involuntarily (after a hearing where you disagree and the court decides).

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## **Can you still see or talk to your child even if your parental rights are terminated?**

In most cases, TPR means that the parent loses her **right** to have any relationship with her child, including visits. It is up to the adoptive parent to decide how much you are allowed to call, visit, or otherwise contact your child. There is a state law that, in some cases, allows a Post-Adoption Contact Agreement (an “Act 101 Agreement”) between the parent and the adoptive parent. This gives the parent a right to visitation or other contact with the child after adoption. The adoptive parent would have to agree to this Agreement and the judge would also have to agree, so they are not ordered in every case. If you are interested in learning more about a Post-Adoption Contact Agreement, you should speak with your lawyer. Also, if your child was born in Pennsylvania, once he or she turns 18, s/he can look you up if you are registered as the biological parent with the Pennsylvania Department of Public Health. To register, you must file a Biological Parent Registration Identification Form with the Department of Health. These forms may be requested by calling the Division of Vital Records at (877) PA-HEALTH or (724) 656-3100 or by writing to: Division of Vital Records, Attn: Adoption Registry, 101 S. Mercer Street, Room 401, PO Box 1528, New Castle, PA 16101. If your address changes, you must submit a new form to the Department of Health. There is no fee to file these forms.

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## **Can your parental rights be terminated just because you are in jail?**

This is a complicated question. In general the law requires evidence that (1) a parent is either unfit or unwilling to care for her child and (2) that it’s in the child’s best interest to grant TPR. The fact that a parent is incarcerated is not by itself evidence the parent is unfit or unwilling. The court will look carefully at the efforts you’ve made from jail to meet your goals and maintain a relationship with your child. But if a parent has a long sentence or goes in and out of jail a lot, the court can decide that a parent is unfit and grant TPR, if it is in the best interest of the child.

## **Should you agree to termination of parental rights (TPR)?**

This is a question only you can answer. But it is important to know that if you fight TPR and lose (called an “involuntary termination”), there could be consequences for any other children you have. The law says that if a parent’s rights have been involuntarily terminated (the parent opposed TPR and lost), DHS can more easily terminate your rights to any other children of yours who enter foster care. A previous involuntary TPR is considered “aggravated circumstances” that allow DHS to go straight for adoption and not have to spend time working with you on reunification. DHS can’t do this when a parent agrees to TPR (signs voluntary TPR papers). If a parent has signed voluntary TPR papers and another one of their children goes into foster care, DHS is usually obligated to support that parent in reunification. The decision whether to agree to TPR or not is a very hard question that you should be sure to discuss with your lawyer.

# Child Support

Who can file for child support?	See below.
• What if you are not married to your child’s father. Can you still get support?	Go to page 11.
• What if you are not certain <b>who</b> the father is?	Go to page 11.
• What if you do not know <b>where</b> the father is?	Go to page 11.
How much child support will you get?	Go to page 11.
How do you file for child support in Philadelphia?	Go to page 11.
• Where do you file?	Go to page 11.
• What does it cost to file?	Go to page 12.
• Do you want to prepare your own child support petition?	Go to page 12.
What will happen after you file your petition?	Go to page 12.
• Do you need to establish paternity?	Go to page 12.
• Do you need DNA testing to establish paternity?	Go to page 12.
• What happens at the support conference?	Go to page 13.
• What happens at the support master’s hearing?	Go to page 13.
• What if you disagree with the master’s support order?	Go to page 13.
Do you have to file for child support if you get welfare cash assistance (TANF)?	Go to page 13.
What if you are afraid to file for child support because your child’s father abused you?	Go to page 14.
What if you are afraid of your child’s father, so you don’t want him to find you? Can you still get child support?	Go to page 14.

## Who can file for child support?

If a child lives with you more than half the time, you may file for child support. You do not need a custody order to file for support. There are choices for where to file. You may always file where you and the children live.

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**What if you are not married to your child’s father? Can you still get child support?**

Yes, you can. If you were married when the child was born, your husband is presumed to be the father. If you were not married when the baby was born and the father came to the hospital, the hospital asked the father to sign an acknowledgment of paternity. If he signed the acknowledgment, paternity was established at that time. If this did not happen, the court must establish paternity before deciding on child support. When you file for support, tell the Intake staff who you think the father is. If paternity has not already been established, the first step will be to establish paternity.

**What if you are not certain who the father is?**

Sometimes, a mom is not certain who her child’s father is. If this is your situation and you want child support, you may file. Tell the court who you think is most likely to be the father. Read below to learn what happens next.

**What if you do not know where the father is?**

If you do not know where the father is, Family Court will try to find him. Go to Family Court to file for support. Explain to the Intake staff that you do not know where the father is. They will refer you to the Parent Locator Unit. It helps to have as much information as possible. If you can, give the Parent Locator Unit the father’s name, date of birth, social security number, and any other information about where he is or where he works.

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**How much child support you will get?**

The idea behind child support is that the children of parents who are separated should receive the same amount of support as they would if their parents lived together. The court will look at the Pennsylvania Child Support Guidelines to determine how much money you should receive each month. These guidelines instruct courts to look at the combined income of the mother and father and the number of children for whom support is sought. Once that amount is determined, the parties’ individual incomes are compared to the guideline amount to determine the percentage of support for which each party is responsible.

Your income and the income of the father are taken into account. Public benefits, such as welfare or SSI, are not considered income for the purposes of determining child support. The Court will also consider whether the person who must pay support is also paying child support for other children.

**How do you file for child support in Philadelphia?**

**Where do you file?**

In Philadelphia, go to Philadelphia Family Court, 34 South 11<sup>th</sup> Street, Philadelphia (between 11<sup>th</sup> and 12<sup>th</sup> Streets, in an alley between Chestnut and Market Streets). Ask for the Intake Unit. Intake staff will ask you questions and prepare your petition (called a complaint). Bring the name, address, and social security number of the father and the names, dates of birth, and social security numbers of your children. The Intake worker will give you a hearing notice with information about your “support conference.”



**What happens at the support conference?**

Once paternity is established, the support conference will take place. The conference officer will apply the Pennsylvania Child Support Guidelines to the information you and the father provide. The officer will propose a support order. If you and the father both agree on the proposed amount of support, the officer will get a judge to sign the order. If you do not agree, you DO NOT HAVE TO SIGN. You have a right to have another hearing before a master.

**What happens at the support master’s hearing?**

If you or the father does not agree with the conference officer’s proposed order, the next step is a master’s hearing. Bring everything to the master’s hearing that you brought to the support conference and any additional documents you believe will help the master understand your position. If you believe the father has not provided accurate or complete information about his income, you should tell the court and ask that he be ordered to do so at this hearing. The Master will decide support based on the Pennsylvania Child Support Guidelines. If you believe that a Guidelines amount of support will not meet your child’s needs, you must show the master why this is so. Examples include special needs, uninsured medical costs, and health insurance premiums. The master will take testimony. He or she will issue a proposed order. You have the right to disagree with this proposed order, but you have a very short time to do it.

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**What if you disagree with the master’s support order?**

If you disagree with the master’s support order, you must file exceptions by the deadline on the written recommendation. *For a copy of the exceptions form and instructions on filling it out, go to the Women’s Law Project’s website at [www.womenslawproject.org](http://www.womenslawproject.org) and click on “Helpful Resources.”* In your exceptions, you must explain in writing why you think the Master’s proposal is wrong. These exceptions need to be filed in person or received by mail within the 20 days. You may not fax them. After the exceptions are filed, there will be a hearing scheduled before a judge. You will need to explain to the judge what you think the Master did wrong. The judge will issue a final order. If you disagree with the judge’s order, you must file an appeal **within 30 days** of the date of the judge’s order. Appeals are very complicated. You should speak to an attorney immediately if you wish to pursue an appeal.

**Do you have to file for child support if you file for welfare (TANF) cash assistance?**

If you receive cash assistance, and you are eligible for child support, the law requires that you pursue child support UNLESS YOU HAVE “GOOD CAUSE” NOT TO. Your caseworker will file your support petition for you. As a condition of receiving cash assistance, you must assign your right to support to the State. This is called “assignment of support rights.” Your caseworker

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will give you a form to sign to make this happen. You will go through the support process described above. When your child support is paid, it will be sent to the Pennsylvania Department of Public Welfare (DPW). DPW will send you part of the support payment. This is called the “child support pass through.” DPW will keep the rest. The amount of the pass through depends on how much child support is paid and how many children you have. For one child, the pass through amount is up to \$100 of the child support paid in each month. For two or more children, you will receive up to \$200 of the child support paid each month. You will receive this pass-through payment only once a month.

*For more information on child support in Philadelphia County, including information on establishing paternity and modifying a child support order, please see the Women’s Law Project’s website at [www.womenslawproject.org](http://www.womenslawproject.org) under “Helpful Resources.”*

**You are afraid to file for child support because the father of your child abused you. Do you have to file?**

The people who run the cash assistance program understand the safety risks of filing for child support if the father has hurt or threatened you. If you are a victim of domestic violence and you believe that complying with the requirement that

you file a support petition will put you or a family member at risk of harm, you may request a good cause waiver from your caseworker. If the waiver is granted, you will be excused from filing for child support. If your waiver is denied, you will receive information about why it was denied, how you can appeal, and what further information you need to show good cause.

**You don’t want your child’s father to find you, because you think he could hurt you. Can you still get child support?**

If you are concerned about your safety, you may ask Family Court to remove your address on notices it sends to the father. Both the court and the County Assistance Office can place a Family Violence Indicator on your file so that confidential information about you and your children is not given out, and your address is not printed on papers going to others. If you have an active Protection from Abuse Order (PFA) against the father, or there is some reason to believe that releasing information to the father will result in danger to you or your children, the court will mark your case with a Family Violence Indicator. If you receive cash assistance and the child support petition is started by the welfare office, you should ask the welfare office to place the Family Violence Indicator on your file to prevent your address from being given to the father.

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# Domestic Violence

You are being abused. What can you do?	See below.
• Are you in immediate danger?	See below.
• Do you want a protection from abuse order (PFA)?	See below.
What is a PFA?	Go to page 16.
• What does a PFA do?	Go to page 16.
• How long does a PFA last?	Go to page 16.
• What is considered abuse?	Go to page 16.
Who can file a PFA?	Go to page 16.
Where do you file a PFA?	Go to page 16.
What if you are abused when Family Court is closed?	Go to page 16.
What else should you know about filing a PFA?	Go to page 17.
How does the abuser find out about the PFA and the hearing?	Go to page 17.
How can you prepare for the PFA hearing?	Go to page 18.
• Witnesses	Go to page 18.
• Police officers as witnesses	Go to page 18.
• Evidence	Go to page 18.
What happens at the PFA hearing?	Go to page 19.
What if you are afraid to show up at the hearing?	Go to page 19.
How is a PFA enforced?	Go to page 19.

## You are being abused. What can you do?

### Are you in immediate danger?

If you are in immediate danger, call the police at 9-1-1. Check out SAFETY PLANNING TIPS at [www.womenslawproject.org](http://www.womenslawproject.org) under Helpful Resources.

### Do you want a protection from abuse order (PFA)?

If you think you might want a PFA, read the rest of this chapter to learn more.

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## What is a PFA?

### What does a PFA do?

A PFA may include one or more of the following:

- Require the abuser to stay away from you
- Prohibit the abuser from threatening or abusing you
- Evict the abuser from the home
- Require the abuser to turn over weapons to the police
- Require the abuser to pay for repairs and medical bills caused by the abuse
- Specify legal and physical custody
- Require payment of child support.

### How long does a PFA last?

A PFA can last up to three years and can be extended for a longer term.

### What is considered abuse?

Under the Pennsylvania Protection from Abuse Act, abuse is defined as:

- Attempting or causing bodily injury
- Placing someone in fear of bodily injury
- False imprisonment
- Sexual assault
- Stalking.

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## Who can file a PFA?

You may file a PFA if the person who is abusing you is one of the following:

- Your spouse or ex-spouse
- Boyfriend/girlfriend
- Parent of your child
- Current or former sexual partner
- Your parent or child or
- Someone related to you by blood or marriage.

## Where do you file a PFA petition?

You can file a PFA petition in Philadelphia if you or your abuser lives or works in Philadelphia, or if the abuse occurred in Philadelphia. Go to the Domestic Violence Intake Unit, Room 242, Philadelphia Family Court, 34 South 11<sup>th</sup> Street, Philadelphia. Plan to get there early and be prepared to wait. The staff will help you with your petition.

## What if you are abused when Family Court is closed?

In an emergency, when Family Court is closed, you may go to the Criminal Justice Center at 1301 Filbert Street, Room B-03 to file for an emergency PFA. If you receive an emergency order, it will last until 5:00 p.m. on the next day that Family Court is open, when Family Court will issue a temporary order. You should call the Family Court on the next day it is open at (215) 686-3514/5 to see if a temporary order has been issued.

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## **What else should you know about filing a PFA?**

There is **NO FILING FEE**. You must describe the most recent incident of abuse, as well as prior incidents, if any. You should be clear about what you want in the order. If you and the defendant have children together, you may ask for a custody provision in the PFA Order that can specify when the defendant can see the children, whether the defendant must be supervised when seeing the children, and provide safe transfer of the children between you and the defendant.

Your petition will be presented to a judge while you wait. The judge will issue a temporary order if he/she believes that it is needed. If a temporary order is granted, the court will give it to you. Even if it is not granted, a hearing for a permanent order will be scheduled within ten days. Staff will give you a packet of information for you and the defendant. Whether or not you receive a temporary order, you should attend the hearing so you can tell the court why it should issue a PFA order. If you do not appear, your petition will be dismissed.

If you want to create your own petition, you will find the form and directions on the Women's Law Project website at

[http://www.womenslawproject.org/forms/Petition\\_Protection\\_From\\_Abuse.pdf](http://www.womenslawproject.org/forms/Petition_Protection_From_Abuse.pdf).

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## **How does the abuser find out about the PFA and the hearing?**

**You must make sure the defendant gets his copy of the packet.** This is called SERVICE. The Temporary Order, Petition, and Notice to Appear must be served on the abuser (the person you filed against is called the defendant). You may give it to him yourself or have a responsible adult serve it for you. In Philadelphia, the police will serve PFA orders. We suggest you ask the police to serve the defendant for you.

Once your abuser has been served with this order, he/she may not violate it. If he/she does violate the terms of the order, call 9-1-1 and explain that you have a PFA and the defendant is violating it.

**If you are unable to serve the papers before the PFA hearing, you should still go to the hearing. If you do not appear, your petition will be dismissed.**

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## How can you prepare for a PFA hearing?

At the hearing, you will present your case to the judge. This means bringing witnesses and evidence to court to prove that you have been abused.

You may wish to have an attorney represent you. Contact Philadelphia Legal Assistance at 215-981-3800 or Women Against Abuse Legal Center at 215-686-7082.

If you cannot find an attorney, you must prepare for the hearing yourself. Consider bringing evidence and witnesses of the abuse.

- **Witnesses.** When deciding what witnesses to bring, remember that witnesses can only testify about things they have actually seen.

**Getting subpoenas for your witnesses.** You will need subpoenas for all the witnesses you plan to bring, because they will need to present the subpoena to enter the building on the day of the hearing. You can pick up subpoenas for witnesses at the same place you filed your petition. Pick up as many copies as you will need on the day you file your petition. There are two different kinds of subpoenas: blue and red.

- **Blue subpoenas** are for people who will cooperate with you. These are people you know are going to show up for your hearing. The court cannot enforce blue subpoenas, so make sure you use them for people you know are going to attend the hearing.
- **Red subpoenas** are for people who are not going to cooperate. These must be served by someone who is not involved in the case.

The witness must receive the subpoena at least a few days before the hearing. Because you will only have up to ten days before your hearing, it is important that you plan ahead.

- **Police officers.** To subpoena a police officer to come to your hearing, you need his full name, badge number, and the date and time of the incident he would be testifying about. Call (215) 686-7290 and ask about the cost of subpoenaing that officer. The cost will depend on the rank and squad of the officer. You will need to get a money order for the amount they tell you, and make it out to the City of Philadelphia. It must be a money order, as cash and checks are not accepted. Fill out a subpoena form for that officer and bring the subpoena and the money order to 1515 Arch Street, 14<sup>th</sup> Floor and have it approved. Once approved, serve it on the officer by going to the precinct at which he works as soon as possible.
- **Evidence.** Some types of evidence you should think about bringing are:
  - **Medical records** – go to your doctor or hospital and ask for a copy of your full medical record. A discharge summary is not enough. Your abuser has a right to see whatever evidence you bring. Therefore, if you do not want him to have information about your address, telephone number, social security number or other personal information, you may black out that information, but you should leave your name.

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- **Photos** of injuries and/or damaged property.
- **Letters, emails, text messages, or voicemail** messages from your abuser. You should be prepared to tell the judge when you received them and how you knew it was the defendant who sent them. If these messages are on your phone, you will have to leave your phone with security when you come into the courthouse. When you check in, tell the court clerk that you will need your phone at the hearing and ask that he/she help you in getting it to the courtroom.
- **Phone records** showing frequent calls from the abuser.
- **Police reports** from prior incidents of abuse or harassment. However, the police report may not be admitted into evidence unless you have the police officer present at the hearing.

### **What happens at the PFA hearing?**

The judge will listen to both parties and decide whether to issue a final order. You will be given an opportunity to tell the judge why you need protection. You should tell the judge about each incident of abuse, beginning with the most recent, and be as specific as possible. The parties will also be given an opportunity to reach an agreement on the order.

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### **What if you are afraid to show up at the hearing?**

If you do not show up at the hearing, your petition will be dismissed and the temporary protection order will end. If you are afraid that you will be in danger while in the courthouse on the day of the hearing, you should ask the sheriff for assistance. **Call the Sheriff's Office at Family Court at (215) 686-3526 before your hearing to ask for help.** When entering the courthouse, you can ask that a sheriff or security guard escort you to the courtroom, or wait with you in the waiting room. If you fear for your safety when leaving the courthouse after the hearing, tell the judge or the judge's clerk. They can give you time to leave safely by holding the defendant at court for a period of time.

### **How is the PFA enforced?**

It is a crime to violate a PFA. Call the police immediately. The District Attorney is responsible for prosecuting anyone who is arrested for violating a PFA. You may also file a petition for civil contempt in Room 242 of the Family Court at 34 S. 11th Street. A hearing will be scheduled. If a judge finds the defendant guilty of violating the PFA, the defendant can be sentenced to prison for up to 6 months and/or fined up to \$1000.

*For more information on domestic violence and Protection from Abuse Orders, including printable copies of Protection from Abuse filing forms, see the Women's Law Project's website at [www.womenslawproject.org](http://www.womenslawproject.org).*

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# Divorce

How do you file for divorce?	See below.
What if your husband agrees to the divorce?	See below.
What if your husband does not agree to the divorce?	Go to page 21.
What does it cost to file for divorce?	Go to page 21.

## How do you file for divorce?

Filing for divorce can be a very complicated process, especially if alimony (support from your spouse after the divorce), and property division are involved. ***If possible, it is best to have legal representation.*** If you do not ask for alimony or a fair division of marital property (assets and debts) during the divorce process, you will lose all rights to them when the divorce is finalized. Child support and custody can be decided at any time, and do not have to be included in a divorce action.

There are two kinds of divorce, fault and no-fault. For a fault-based divorce, you must prove in court that you are innocent of any marital fault (as defined in the law) and that your spouse is guilty of marital fault. This is an expensive and long process.

No-fault divorces are by far the most common, because they are less expensive. There are two kinds of no-fault divorces, based on whether your husband will agree to the divorce.

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## What if your husband agrees to the divorce?

If your husband agrees to the divorce, you may file a mutual consent divorce. This means that you both agree to the divorce and you will not have to prove in court that one spouse is to blame. One of you will file the divorce complaint, and after 90 days, both of you will sign affidavits that you both consent to the divorce. The judge will then grant the divorce. If you disagree about alimony or the division of marital property, it may take longer to finalize the divorce.

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## What if your husband does not agree to the divorce?

If your spouse does not agree to a divorce, you must wait until you have been separated for at least 2 years. After the two years have passed, you may file for a two-year separation divorce. Separation does not necessarily mean that you have been living at separate addresses for the past two years. If you live in the same residence, you may be able to prove that you have been separated by showing that you live separate lives. Examples of living separately include cooking, shopping, and eating separately, doing laundry separately, and sleeping apart from your spouse. If you have not been living apart for two years yet, you may file now but you will not be granted the divorce until the two years is met.

If you want to file for a no-fault divorce in Philadelphia, there is a Self-Help No-Fault Divorce Manual that can help you do it yourself. You can find it at [http://divorce.jenkinslaw.org/research/resource-guides/research-links?active\\_tab=299540](http://divorce.jenkinslaw.org/research/resource-guides/research-links?active_tab=299540). It does NOT include information on alimony and marital

property. If you need legal representation, you may find a lawyer through the Philadelphia Bar Association's Lawyer Referral and Information Service at 1101 Market Street, 11th Floor Philadelphia, PA 19107, (215) 238-6333. You may also be eligible for free legal advice through Philadelphia Legal Assistance (PLA). Call PLA at (215) 981-3800. For more information, visit <http://www.philalegal.org> on the Internet.

## What does it cost to file for divorce?

There is a fee to file for divorce. At the time this booklet was written, it was \$316.98. The Court sometimes changes the fee so it is important to check with the court before filing to get the correct amount.

If you cannot afford this fee, ask the court for an In Forma Pauperis (IFP) Petition and fill it out. *The Women's Law Project has the form and instructions for filling it out on its website at [www.womenslawproject.org](http://www.womenslawproject.org) under Helpful Resources.* If you are on welfare, you should bring your card to the courthouse with you. If you are on social security, you should show the court staff proof.

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# Free Philadelphia Legal Resources

**AIDS Law Project** provides free legal services to Pennsylvanians with HIV/AIDS.

[www.aidslawpa.org](http://www.aidslawpa.org)

**Intake by phone:** 215-587-9377

**Services:**

- Family
  - Debt Management
  - Employment
  - Housing
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**Community Legal Services (CLS)** CLS has two offices. Each office helps low-income people with different problems. Check the lists for Center City and for North Central to figure out where to go.

[www.clsphila.org](http://www.clsphila.org)

## **CLS (Center City)**

1424 Chestnut St.  
Philadelphia, PA 19102

**Walk-in:** Monday through Friday, 9-12

**General Phone Intake:** 215-981-3700

**Family Law Line** (for parents dealing with DHS):  
215-981-3765

**Services** offered at Center City office:

- DHS (parents only)
  - Employment (including problems related to a criminal record)
  - Landlord-Tenant for private tenants
  - Public Housing/Section 8
  - SSI Disability Benefits
  - Student Loans
  - Utilities
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## **CLS (North Central)**

1410 Erie Avenue  
Philadelphia, PA 19140

**Walk-ins:** Mon, Wed, Fri 9-12

**Section 8 Walk-ins:** Tue, Thurs, 9-12

**Landlord Tenant Walk-in:** Mon, Wed, 9-12

**General Intake:** 215-227-2400

**Welfare Law Line:** 215-227-6485

**Don't Borrow Trouble:** 215-523-9520

**Services** offered at North Central office:

- Bankruptcy
  - Consumer scams
  - Credit card debt
  - Elderly issues
  - Employment (not including criminal record problems)
  - Food stamps
  - Foreclosure, Mortgages and Property Taxes
  - Loans and Collections
  - Medical Assistance
  - Medicare
  - Nursing homes and personal care homes
  - Predatory loans
  - SSI Disability Benefits
  - Student loans
  - Utilities
  - Welfare
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**Consumer Bankruptcy Assistance Project**

[www.philalegal.org/html/consumer\\_bankruptcy\\_assistance.html](http://www.philalegal.org/html/consumer_bankruptcy_assistance.html)

**Intake** is done by other agencies, including AIDS Law Project, Community Legal Services, Homeless Advocacy Project, Legal Clinic for the Disabled, Norris Square Civic Association, Philadelphia Legal Assistance, SeniorLAW Center, Tenant Union Representative Network (TURN), and Women Against Abuse.

**Services:** Representation of low income individuals for consumer debt and Chapter 7 bankruptcy.

**Defender Association of Philadelphia**

[www.philadefender.org](http://www.philadefender.org)

**Intake:** After arrest, a pre-trial services representative conducts a phone interview to determine financial eligibility. At the preliminary arraignment, the Trial Commissioner will decide whether to appoint the Public Defender or order the person who has been arrested to hire a private attorney.

**Questions:** 215-568-3190

[www.philadefender.org](http://www.philadefender.org)

**Services:** representation in criminal cases

**Disability Rights Network of PA**

[www.drnpa.org](http://www.drnpa.org)

**Intake:** 1-800-692-7443, Monday – Friday, 9-5

**TDD:** 1-877-375-7139

**Services:** Provides direct legal and advocacy services to persons with disabilities, their families seeking to help them, and organizations seeking to help them.

**Homeless Advocacy Project** provides free legal services to homeless individuals and families in Philadelphia. [www.homelessadvocacyproject.org](http://www.homelessadvocacyproject.org)

**Intake:** 215-523-9595 or 1-800-837-2672, Mon-Fri, 9-5. Also at legal clinics, shelters, and soup kitchens.

**Services:** Regular legal clinics at shelters help with

- Special education
- Children’s SSI
- TANF benefits
- Child custody
- Child support
- Referrals to social services

**Legal Clinic for the Disabled, Inc.** provides legal services and representation for low-income people with disabilities. [www.lcdphila.org](http://www.lcdphila.org)

**Intake:** 215-587-3350 Monday, Wednesday, and Friday, 9:30-3:30.

**Services:**

- Consumer protection
- Advanced planning documents
- Family law
- Housing
- Benefits

**Mazzoni Center** represents individuals in cases that may have an impact on LGBT rights in PA.

[www.mazzonicenter.org](http://www.mazzonicenter.org)

**Intake:** 1-866-LGBT-LAW or 215-563-0657

**Services:**

- Employment discrimination
  - Housing
  - Bullying
  - Second-parent adoption
  - Custody
  - Name changes
  - Police misconduct
  - Prisoners' rights
  - Relationship dissolution
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**Pennsylvania Health Law Project** provides help in accessing publicly funded healthcare coverage or services. [www.phlp.org](http://www.phlp.org)

**Intake:** 800-274-3258 (HelpLine), Mon-Fri, 9-5

**Services:**

- Medicaid/Medical Assistance
  - CHIP
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**Pennsylvania Institutional Law Project**

[www.pailp.org](http://www.pailp.org)

718 Arch St., Suite 304 South  
Philadelphia, PA 19106

**Intake:** All requests for help must be sent by mail.

**Services:** Represents small number of low income individuals (NOT in criminal matters)

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**Philadelphia Legal Assistance**

42 South 15<sup>th</sup> Street, Suite 500, Philadelphia

[www.philalegal.org](http://www.philalegal.org)

**Walk-In Intake** (not including Family Law): Mon & Wed, 9-11:30

**Phone Intake:**

- **General** (not including Family Law): 215-981-3800, Tues & Thurs, 9-12
  - **Family Law Intake** (215-981-3838), Mon, Wed, & Fri, 10-12
  - **Save Your Home Philly Hotline:** 215-334-HOME, any time for help with mortgage foreclosure
  - **Immigrant Women's Legal Assistance:** 215-981-3838, any time, for help with domestic violence, custody, child/spousal support, and immigration.
  - **Pennsylvania Farmworker Project:** 1-888-541-1544
  - **Private Landlord/Public Housing Section 8:** 215-981-3700, M-F, 9-5 pm
- Services:**
- Bankruptcy
  - Changing a birth certificate
  - Child custody
  - Child support
  - Consumer scams
  - Credit card debt
  - Divorce
  - Food Stamps
  - Foreclosure
  - Medical Assistance
  - Mortgages
  - Name change
  - Protection from Abuse orders
  - Unemployment Comp
  - Welfare
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**SeniorLAW Center** for people 60 and older

[www.seniorlawcenter.org](http://www.seniorlawcenter.org)

**Walk-ins:** Tues & Thurs, legal emergencies only, including violence

100 South Broad Street

18th Floor, Land Title Building

Philadelphia, PA 19110

**Phone Intake** (Mon – Thurs, 10-2): 215-988-1242 in Philadelphia, 1-877-727-7529 all other PA residents

**Services:**

- Housing and utilities
  - Consumer protection
  - Protection from abuse
  - Financial exploitation
  - Custody and support for grandparents and other kinship caregivers
  - Wills, health care directives
  - Medicaid
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**Temple Legal Aid** represents low income

Philadelphia residents year-round

[http://www.law.temple.edu/pages/Academics/Clinical\\_LawSchool\\_Clinics.aspx](http://www.law.temple.edu/pages/Academics/Clinical_LawSchool_Clinics.aspx)

**Intake:** 215-204-1800, M-F, 9-5

**Services:**

- Family law representation
  - Child custody mediation
  - Legal advocacy for people with cancer, HIC, or physical disabilities
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**Tenant Union Representative Network (TURN)**

– information and advocacy, no legal representation

<http://www.rturn.net/>

**Intake Hotline:** 215-940-3900 Mon-Fri, 9-5

**Walk-in:** Mon-Fri, 10-4

21 S. 12<sup>th</sup> Street, 11<sup>th</sup> Floor, Philadelphia, PA 19107

**Services:**

- Tenant rights counseling
  - Court preparation and eviction defense
  - Tenant rights workshops: Mon, Wed, Fri at 12:30, and Wed at 5 pm
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**University of Pennsylvania Law School Clinic**

represents low income people in a small number of cases

**Intake:** 215-898-8427. No walk-ins.

**Services:**

- Social Security disability
  - Unemployment compensation
  - Custody
  - Support
  - Housing
  - Consumer rights
  - Education
  - Employment discrimination
  - Expungement of child abuse records
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**Villanova Law School Clinic**

No Walk-ins.

Intake by Phone:

CARES Clinic – 610-519-3006

Civil Justice Clinic – 610-519-6417

Farmworker Legal Aid Clinic – 610-519-3006

Federal Tax Clinic – 610-519-4123

**Services:**

- Custody
- Support
- Disability
- Consumer matters
- Housing
- Employment
- Health Law Clinic

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**Women’s Law Project**

Intake: 215-928-5760

[www.womenslawproject.org](http://www.womenslawproject.org)

Services: Call-back service providing legal information on domestic violence, custody, support, divorce, and other civil matters (telephone service only, no representation).

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**Women Against Abuse Legal Center**

[www.womenagainstabuse.org](http://www.womenagainstabuse.org)

Intake: 215-686-7082, Mon-Fri, 9-5

**Services:**

- Counseling
- court advocacy in Protection from Abuse (PFA) hearings
- court representation in PFA hearings
- very limited help with custody and support for victims of abuse
- support and assistance to victims and witnesses in criminal cases against their abusers
- assistance for victim when abuser violates protection order
- connection to shelter
- safety planning
- self-defense

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