

HOW TO GET AN ORDER OF PROTECTION FROM FINANCIAL ABUSE

INTRODUCTION

If you or someone you know is being financially abused or is about to be financially abused, you can ask the court for a protective order to stop the abuse. You may ask for a 20-day order, or you may ask for both a 20-day order and a long-term order for up to 6 months.

The 20-day order is called an “ex parte” order. Ex parte is a legal term (pronounced *ex par-teh*) that means for one party. In other words, the short 20-day ex parte order can be issued by a judge without requiring all of the parties to be present. The long-term order is not for just one party, however, and persons involved in the case have the right to appear and be heard if a long-term order is requested and a long-term hearing is held.

There are four basic steps involved in getting an order of protection from financial abuse from the court:

1. The petitioner starts the case by filing court form PG-800 called a “petition.” There is no charge for filing this petition.
2. The judge typically holds a hearing about the petition.
3. After the hearing, the judge decides whether or not to grant the petition. This will result in either an order of protection, or an order denying the petition.
4. After the order is issued, a copy of the order must be given to the people involved in the case. This is called “service of process” and the method used to serve people varies depending on the person’s role in the case and the stage of the case at the time of service.

CHANGING A PROTECTIVE ORDER

Any party can ask the judge to extend, change, or end a protective order that is already in place. Use court form PG-835 to request any of these types of modifications. The form is available online and from the court clerk at every Alaska court location.

WHO ARE THE PEOPLE IN THE CASE?

The people or companies involved in a case are called “parties.” There are as many as 3 parties in a financial abuse protective order case:

- Protected Person. The protected person is the person who the petitioner believes needs protection from financial abuse. The protected person may be an adult who cannot effectively manage his or her property because of age, mental illness, financial abuse, or some other reason. The protected person may also be a child under age 18.
- Petitioner. The petitioner is the person who files legal papers (the petition) asking for a protective order. The petitioner can be a caregiver, parent, lawyer, neighbor, or other person who wants to get protection for the protected person. Sometimes the petitioner is also the protected person. In other words, the petitioner is asking for protection for himself or herself.
- Respondent. The respondent is the person or company that the petitioner believes should be stopped from financially abusing the protected person.

FILING A PETITION FOR PROTECTION: STEP-BY-STEP INSTRUCTIONS

Following are step-by-step instructions for completing the PG-800 petition form. Once the PG-800 form is filed at the court, the case is started. (However, there is no protective order until a judge issues one. The petition is not a court order.) The petition form is available online and from the court clerk at every Alaska court location.

A. Type of Protective Order Requested

First, decide whether you want protection for 20-days or a longer period of time. For 20-days only, check box (A)(1). For long-term protection, check both boxes (A)(1) and (A)(2).

Important Note: If at first you thought you only needed a 20-day order but you later decide you need longer protection, you can ask for a long-term order at that later time. Court form PG-801 is available for this purpose. However, certain restrictions may apply. For more information, contact the court clerk.

B. Protected Person

The protected person is the person you believe needs protection from financial abuse. It may be you (the petitioner) or somebody else.

1. Describe the protected person in the space provided. Check all boxes that apply.
2. If there are any other cases involving the protected person, please identify the case information requested.
3. Provide complete contact information requested in (B)(3).

C. Petitioner (Person Filing Petition)

The petitioner is the person who files legal papers (the petition) asking for a protective order. If the petitioner is the same as the protected person, which means the petitioner is asking for protection for himself or herself, skip this section and move to section (D).

If the petitioner is not the same as the protected person, and is instead somebody else such as a caregiver, parent, lawyer, or neighbor, then you need to fill out this section and provide the contact information about the petitioner.

D. Respondent (Restrained Person)

The respondent is the person or company you want to stop from doing financial abuse.

1. In part (D)(1), identify whether the respondent is a person, business, or other organization, and answer all related questions.
2. In part (D)(2), explain in detail how the respondent knows the protected person. If they are related, such as a parent and child, list that relationship.
3. Provide complete contact information in (D)(3).

E. Did You Notify the Respondent about the Petition?

You do not have to tell the respondent in advance that you are filing a petition for a 20-day ex parte protective order. However, if you do tell the respondent, you are required to tell the court about it in the petition.

F. Did You Notify the Protected Person about the Petition?

Skip this section if you are a petitioner who is filing for protection for yourself (which would make you both the petitioner and the protected person).

If you are not both the petitioner and the protected person, you need to complete this section. You are required to give a copy of the petition to the protected person unless you think it would cause an immediate threat of harm to the protected person's best interests. If that is the case, describe the immediate threat of harm in the space provided on the form under (F)(2)(b).

G. Describe the Financial Abuse

There are basically three things you must tell the court about the financial abuse.

1. First, in part (G)(1), identify what property, money, or business interest is being abused or at risk of being abused. Be as specific as you can and use extra sheets of paper if you need to. Include an estimate of the dollar value at risk in the space provided.

For Example: *The money in my mother's checking account number 1234567 at the FNBA branch at 333 Main Street in Cordova, Alaska is at risk. The estimated value of the money at risk is \$3,000.*

2. Second, in part (G)(2), describe the actual financial abuse. Check one or both of the boxes at the bottom of this section if you know of previous abuse by the same respondent or other people against the protected person.

For Example: *My mother's boyfriend, Edwin Frankenthaler, provides live-in care for my mother. Sometimes he withholds food from my mother unless my mother gives him money. Last week, he forced my mother to sign a check giving him \$1,000.*

For Example: *I gave my daughter a power-of-attorney to help me pay my bills and buy groceries while I was sick. Somehow she got my ATM card and PIN. Now there is a lot of money missing from my bank account and I don't know what happened.*

3. Third, in part (G)(3), describe why you believe the risk to the protected person's money or property is immediate or urgent.

For Example: *My uncle received an email from England from somebody who was pretending to be his son. The email said that the son is in jail and needs \$5,000 to pay to get out of jail and fly home. My uncle does not realize this is a scam and intends to send money this Friday after he goes to his bank.*

For Example: *My mother has dementia and lives in an assisted living home. Her personal care attendant is borrowing money from her and recently had her sign a power-of-attorney. My mother really depends on that person but now there is money missing from my mother's purse and the personal care attendant took mom to the bank and tried to get her to authorize a cash withdrawal for \$1,000. The situation is urgent because my mother has dementia and doesn't know how to revoke her power-of-attorney. She gets extremely upset and starts crying when I try to talk to her about it. I am afraid that she cannot understand what is happening.*

H. Protections Requested from the Court

This is the space where you can explain to the judge what specific things you want the judge to do to stop or prevent the financial abuse.

1. You can ask the judge to order the respondent not to have any contact with the protected person and petitioner.
2. You can ask the judge to cancel or change any power of attorney that currently exists.
3. You can ask the judge to limit the respondent's activities. You can ask to limit all activities or just some activities.
4. In part (H)(4), list any other things you would like the judge to order that are not already listed.

Signing Your Petition

There are two different ways you can sign your petition, depending on the availability of a notary public or court clerk.

If a notary public or court clerk is available, you will sign in the **Verification and Signature** section in front of the notary public or court clerk. Do not sign until you are in front of them, and be sure to bring ID with you. There is no charge for notarization by a court clerk.

If no notary public or court clerk is available, you will sign in the **Certification and Signature** section. Sign, date, and print your name in the space provided on the form.

File Your Petition

Hand your completed petition to the court clerk for filing and the court clerk will distribute it to a judge for consideration and further action.