

## DOMESTIC VIOLENCE PROTECTIVE ORDERS AVAILABLE 24/7

**WHEN:** On December 18, 2002 at 12:01 a.m.,

**WHAT:** Victims of domestic violence will be able to get interim protective orders at night and during weekends, when the majority of domestic violence incidents occur. Under legislation passed during the 2002 General Assembly and supported by almost 88% of the voters, District Court Commissioners will be able to issue *interim protective orders and interim peace orders* when the courts are closed.

**WHERE:** District Court Commissioners are available 24 hours a day, 7 days a week around the state. A victim of domestic violence can access a Commissioner either by going to any on-duty Commissioner's office or by telephoning an on-call Commissioner. Go to the Courts' website at [www.courts.state.md.us](http://www.courts.state.md.us), click on Courts, click on District Courts, click on Commissioners to determine how to access the Commissioners in each jurisdiction.

### **HOW: Interim Protective Orders (IPO)**

Under this new law, Commissioners will be able to issue an IPO providing protection up to 48 hours after the courts reopen. After the initial period of protection, the Petitioner must appear in the District Court for a Temporary Protective Order (TPO) to extend the order. The standard the Commissioner will use to determine whether to issue an IPO is "reasonable grounds to believe that the Respondent has abused a person eligible for relief (PEFR)" as currently defined in FL 4-501.

The **relief available** to the PEFR is defined in FL 4-504.1 and is as follows:

- Order respondent to refrain from further abuse
- Refrain from contacting, attempting to contact or harassing PEFR
- Refrain from entering residence of PEFR
- If PEFR & Respondent are living together at time of abuse, the Commissioner can order the Respondent to vacate the home, can order custody of the parties' minor child, and/or in some instances, can order temporary use and possession of the home.
- If there is an allegation of child abuse, the Commissioner can order custody of the minor child
- If there is an allegation of abuse of vulnerable adult, the Commissioner can order temporary use and possession
- Order Respondent to remain away from place of employment, school, or temporary residence of PEFR (**it was an oversight that stay away from child care was left out of the new law**)

- Order Respondent to remain away from the residence of any family member of PEFR

The interim order will state the day, time, and location for the Temporary Protective Order (TPO) hearing and a tentative date, time, and location for the Final Protective Order (FPO) hearing. The IPO expires upon whichever occurs first: at the end of the second business day or at the TPO. The IPO cannot be extended, although under FL 4-504.1(d)ii, the court may continue the TPO hearing upon good cause. All IPOs will be set for TPO hearings in the District Court. **The Commissioner's decision is not binding on the judge who hears the TPO**

The IPO must be personally served on the Respondent by law enforcement. Therefore, the Commissioner will immediately forward a copy of IPO to appropriate the law enforcement agency for service. The Commissioner should inform the Petitioner of which law enforcement agency to contact to determine if the Respondent has been served. In addition, the Commissioner should give the Petitioner two copies of the IPO so that if the Respondent returns to the Petitioner's home, law enforcement could serve the Respondent with the Petitioner's second copy of the IPO. Before the TPO hearing is scheduled, Commissioners will transfer the case file & return of service to the Office of the District Court Clerk. The Commissioner should indicate in file if he/she thinks the Respondent is in jail.

If both parties file petitions for IPOs, Commissioners must issue IPOs to both if both parties are eligible. Commissioners should try not to order conflicting orders.

**No filing fee or service fee can be charged for filing for a protective order or certain kinds of peace orders.**

### **Temporary Protective Orders (TPO)**

The TPO is the first hearing held by a judge. If this is the first contact the Petitioner has with the court, i.e. if she has not received an IPO, it is the same as the current "ex parte" order. **After this system becomes effective on December 18, 2002, the term "ex parte" order will not be used, and will be replaced with the term Temporary Protective Order.** The relief available in the TPO is defined in FL 4-505. If the Petitioner received an IPO, this is the hearing held 24-48 hours after the courts reopen.

If the Petitioner has received an IPO, she/he must appear for the TPO hearing scheduled at the time of the IPO. If the Petitioner has an IPO and fails to appear at the TPO hearing, the case will be dismissed. If the Petitioner has an IPO and the Respondent has been not been served, the Petitioner will have to reapply for a TPO. The Petitioner should be able to just use the original Petition filed in the IPO. The Respondent will have to be personally served with the TPO by law enforcement. If the Respondent has been served and does not show up at the TPO, the Petitioner will simply go forward with the

TPO. In this case, if the TPO is granted, the Respondent will be served by first-class mail. The standard is “reasonable grounds to believe that a PEFR has been abused.”

If the Respondent has been served with the IPO and appears at the TPO, the judge may proceed with the Final Protective Order **only if both** the Petitioner and Respondent **expressly consent to waive** the TPO hearing. The relief available at the TPO is the same as at the “ex parte” stage now. (See FL 4-505) If the parties do not consent to waive the TPO, the FPO hearing will be scheduled for not more than 7 days.

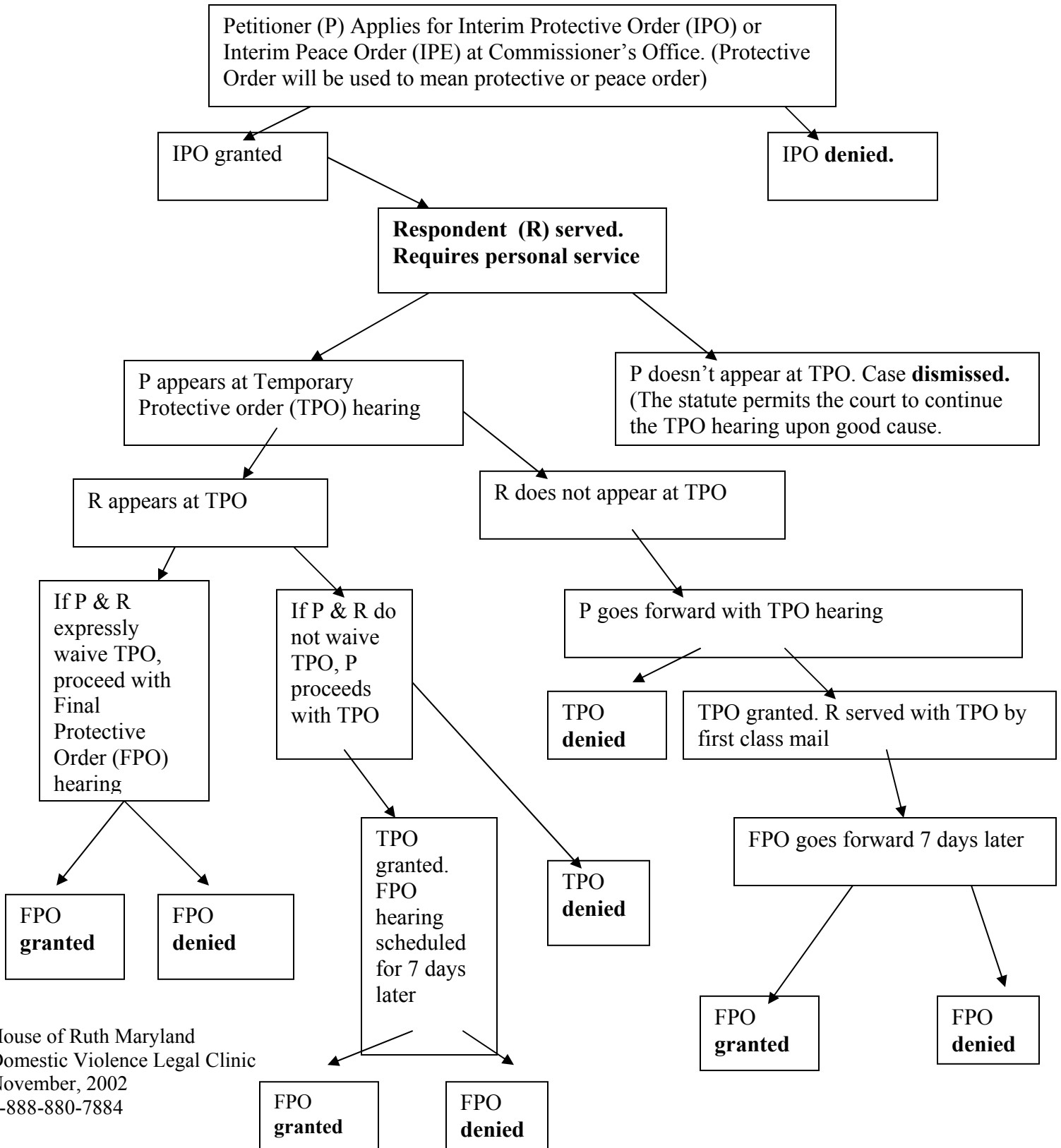
### **Final Protective Order (FPO)**

The FPO is the same as the current protective order hearing now. The relief is available is defined in FL 4-506. The standard for granting a FPO is clear and convincing evidence that the alleged abuse has occurred or if the respondent consents to the entry of the FPO. Remember that if the Respondent was not personally served with the IPO, he/she must be personally served with the TPO or else the case will be dismissed.

### **Help is available**

The House of Ruth Domestic Violence Legal Clinic is actively providing assistance to both victims and attorneys in understanding and using this new law. Please feel free to call us at 1-888-880-7884 if you have any questions.

**NEW PROTECTIVE ORDER PROCESS**  
**When the Respondent (R) has been Served with the IPO**



**NEW PROTECTIVE ORDER PROCESS**  
**When the Respondent has NOT been Served with the IPO**

