

CHAPTER 17 – DOMESTIC VIOLENCE REGISTRY

STATUTORY REFERENCES: **RSA 173-B: 5 (Relief)**
 RSA 173-B: 13 Orders Enforceable
 NCIC Protection Order File
 RSA 633:3-a

INTRODUCTION

The National Crime Information Center (NCIC) Protection Order File was created to facilitate the enforcement of the Full and Faith and Credit provisions of VAWA. This database contains court orders that are issued to prevent acts of domestic violence against a person or to prevent a person from stalking, intimidating, or harassing another person. Both civil and criminal state courts issue orders. The types of protection orders issued and the information contained in them vary from state to state.

New Hampshire law mandates the role the Administrative Office of the Courts plays in entering, storing and disseminating of protection orders issued by the courts. The goal of the New Hampshire Protective Order System is to enhance the safety of individuals protected by domestic violence or civil stalking orders issued by a New Hampshire judge or issued in another state (Foreign Protective Orders) and registered with New Hampshire courts. In furtherance of this goal, New Hampshire enters qualifying Protective Orders into national and state protective order registries thereby increasing the accessibility and enforceability of these orders to law enforcement officials nationwide. Summary information about qualifying Protective Orders is entered into one of three registries more fully described below:

1. National Crime Information Center (NCIC) Protective Order File (POF)
2. NH State Registry of Protective Orders (State Registry); or
3. NH State Police Gun Line

The New Hampshire Judicial Branch builds upon the electronic accessibility of the registries by making copies of the Protective Orders and related documents readily available 24/7 to any law enforcement official in the country who has access to those national or state registries and that has a Fax machine. This enhanced capability is provided by a Faxback System.

What Criminal Justice Agencies Learn from Protective Order Registries

Without the registry, criminal justice agencies would not have knowledge of the existence of the order in another state or within their own state. Instant access to information from an order helps to better serve victims and protect law enforcement.

Specifically, the protective order will indicate whether there is a caution flag on the subject indicating that the person may be armed and dangerous, suicidal or have other violent tendencies. Law enforcement officials can search the NCIC POF using the name and date of birth of either party to an order. They can search the State Registry only on the name and date of birth of the defendant. A search yields summary data about Protective Orders and the individuals involved. Each registry also directs law enforcement officials how to obtain copies of (1) the Protective Order, (2) the Petition which initiated the action, and (3) the Data Sheet about the parties through the use of a unique Protective Order Number (PNO) and New Hampshire's unique Faxback System.

In addition to the system described below, at the time a Protective Order is being issued, it is sent directly to the law enforcement agencies specific to the protected person and subject of the order. While not directly part of the system, this is an important component of the process provided by the New Hampshire Judicial Branch.

A. TRANSMITTAL OF THE PROTECTIVE ORDER TO THE REGISTRY

PROTOCOL 17-1

A copy of each protective order issued under RSA 173-B, RSA 633:3-a and RSA 597 shall be transmitted to the Administrative Office of the Courts by facsimile or computer.

PROTOCOL 17-2

The Administrative Office of the Courts shall enter information regarding the qualifying protective order into NCIC (thus making them available to law enforcement statewide, as well as across the country). The Department of Safety shall make available information regarding emergency protective orders issued telephonically to law enforcement statewide.

NOTE: An Emergency Telephonic Protective Order or a Criminal Order of Protection and Conditions of Bail issued during non-court hours shall be transmitted by the law enforcement agency by facsimile to the Department of Safety. These orders will be entered into the state database. Criminal Protection Orders and Conditions of Bail must then be received by the court by the end of the next business day to be transmitted to the AOC.

COMMENT

All domestic violence and stalking Protective Orders issued in NH which meet NCIC entry requirements are entered by judicial branch staff directly into the **National Crime Information Center Protective Order File** before the close of business on the day that they are issued. This entry includes the PNO which can be used to gain access to copies of the Protective Order and related documents via the Faxback System. This registry is accessible to law enforcement officials throughout the country, to the National Instant Check System (NICS) and to the NH Gun Line. By exposing summary information to law enforcement officials nationwide, the NCIC POF provides the greatest level of protection possible.

PROTOCOL 17-3

All orders for modification, expiration or termination shall be transmitted to the AOC so that it may update and maintain the current database.

B. TYPES OF ORDERS

There are two types of civil and criminal orders that may qualify for entry into a protective order registry: Temporary and Final.

1. Civil Protective Orders – These orders are issued under RSA 173-B or RSA 633:3-a.

NOTE: Protective orders issued under RSA 458 may not meet the due process requirements of NCIC and are not being entered into the registry.

2. Criminal Orders of Protection including Orders and Conditions of Bail –These orders are issued under RSA 597.

C. CIVIL ORDERS

PROTOCOL 17-4

Civil temporary orders are generally issued on an *ex parte* basis. Court staff should provide the plaintiff with the domestic violence petition, the Defendant Information Sheet and any other forms needed for the issuance of the order. After the order is issued, the following documents shall be faxed to the AOC at 271-8485 for entry into the NCIC protective Order Registry:

- a. Temporary Order
- b. Petition; and
- c. Defendant Information Sheet for Law Enforcement

PROTOCOL 17-5

Final Protective Orders are issued after a hearing at which the defendant has had notice and an opportunity to be heard. After the order is issued, the following documents must be faxed to the AOC at 271-8485:

- a. Final Order- pages 1-5 in order;
- b. Petition;
- c. Defendant Information Sheet; and
- d. Notice of Decision or Return of Service.

PROTOCOL 17-6- Modifications

All modifications of orders, with the sole exception of changes in child support, are to be faxed to the AOC. After the civil order has been modified, the following documents must be faxed to the AOC at 271-8485:

- a. Petition;
- b. Original Order;
- c. Modification Order; and
- d. Defendant Information Sheet for the AOC.

NOTE: When only the modification to an order is in the area of child support, the modification should NOT be faxed to the AOC. The volume of modifications for support purposes only is significant and changes to support are of no interest to law enforcement for purposes of enforcement.

PROTOCOL 17-7- Withdrawals/Dismissals/Transfers

Withdrawals, dismissals and transfers are to be faxed to the AOC at 271-8485. An order cannot be removed from the registry without the defendant's name, date of birth, PNO (protective order number) and court docket number.

PROTOCOL 17-8- Extensions

Extension orders must be faxed to the AOC prior to the expiration date of the original order. The NCIC has an automatic purge that removes the order from the registry on the date of expiration. After the order of extension is granted, the following documents must be faxed to the AOC at 271-8485:

- a. Original Order;
- b. Extension Order;
- c. Petition; and
- d. Defendant Information Sheet.

D. CRIMINAL ORDERS

PROTOCOL 17-9- Temporary Orders

Criminal Protective Orders issued by a bail commissioner are considered temporary. The order shall be returned to the court before the close of the next business day. After the order is received by the court, it (the five page order) should be faxed to the AOC at 271-8485.

PROTOCOL 17-10- Final Orders

All criminal bail orders of protection issued by the court at arraignment shall be refaxed to the AOC for entry into the Protection Order File on the date of issuance by the judge.

PROTOCOL 17-11- Modifications

All modifications of orders are to be faxed to the AOC. After the order has been modified, the following documents must be faxed to the AOC at 271-8485:

- a. Original Order; and
- b. Modification Order.

PROTOCOL 17-12- Withdrawals/Dismissals/Transfers

Withdrawals, dismissals and transfers are to be faxed to the AOC at 271-8485. An order cannot be removed from the registry without the defendant's name, date of birth, PNO (protective order number) and court docket number. Upon final disposition of the case, the bail order expires. Staff shall notify the AOC of the termination of the protective order.

E. FOREIGN PROTECTIVE ORDERS

PROTOCOL 17-13

Foreign Protective Orders, those issued by another state or tribal court, presented to a New Hampshire court for registration, must be faxed to the AOC at 271-8485, together with the Affidavit for Foreign Protective Orders. (RSA 173-B: 3, IV) (See also Chapter 15, Full faith and Credit). A PNO should be assigned. The defendant's date of birth and descriptors should be included with the fax transmittal.

COMMENT

Foreign Protective Orders registered in New Hampshire cannot be entered into NCIC by New Hampshire. Only the court of origin may enter a protective order into NCIC. Orders that are already entered into the NCIC registry by the issuing authority are not entered again into our state database.

F. ASSIGNING A PROTECTIVE ORDER NUMBER

In order to enter domestic violence information into the Protective Order Registry, a unique protective order number must be assigned. These numbers have been designated “PNO Numbers”. Once assigned, the PNO number never changes even when the temporary order becomes final or when transferred to another court.

1. Civil Protective Orders

PROTOCOL 17-14- SUSTAIN Courts

Staff will need to manually assign a PNO number which must consist of ten digits. Here is the breakdown:

- 1, 2 and 3: The three- digit court code number of the issuing court
- 4: Always a Zero
- 5 and 6: The year in which the order was issued (2008=08, 2009=09, etc.)
- 7, 8, 9 and 10: The PNO number issued by the Court.

The first number assigned in any given year would be 1; therefore the 10th digit would be one. For numbers having less than four digits, fill them in from left to right with zeros. (Example: when entering a number such as 0017, spaces 7 and 8 would be assigned a zero. The “17” would be placed in spaces 9 &10.)

PROTOCOL 17-15- ODYSSEY Courts

Unlike SUSTAIN, the PNO number for a civil protective order is automatically generated in Odyssey once the temporary order is entered as an “event”. If there is no order, there is no PNO number generated. The PNO number follows the docket/case number of the file.

2. Criminal Protective Orders

For Criminal Protective Orders, the PNO will need to be assigned when the case is opened in ODYSSEY. This may occur when bail is filed with the court and before the criminal complaint has been filed.

PROTOCOL 17-16- SUSTAIN Courts

Staff will need to manually assign a PNO number which must consist of at least 10 digits.

1. The PNO Code will consist of the court code (four digits);
2. Enter year (two digits);
3. Enter identifier number (4); and
4. Enter case number.

PROTOCOL 17-17- ODYSSEY Courts

Many, if not most, Criminal Protective Orders Including Conditions of Bail will be filed prior to the complaint form being received by the court. Staff will need to assign a PNO number per the instructions below:

1. Protective Order Number:
 - a. Click in the field next to “number” and type the PNO number;
 - b. Three digit court code (XXX);
 - c. Two digit year (08); and
 - d. One digit “4” (Because it is a CBPO).

Last four digits of the case number (This PNO should be exactly 10 digits)

2. Manually add the PNO number to the CBPO.

G. PROPER COMPLETION OF THE FIRST PAGE OF THE ORDER AND DEFENDANT INFORMATION SHEET

PROTOCOL 17-18

The first page of the order is based on a national model designed to increase recognizability and enforceability of orders. The order contains standard data elements required by NCIC. The Defendant Information Sheet is designed to provide information to AOC staff for entry into the registry. The Defendant Information Sheet is filled out by the plaintiff and sworn to under oath.

NOTE: Staff should inform the plaintiff that the date of birth and a physical description of the defendant must be provided in order for the protective order to be entered into the registry. The AOC will not be able to enter the order into the database without this information. If no date of birth is provided, the AOC will send the issuing court a reminder to

provide this information. Court staff should ask law enforcement serving the petition to request the date of birth if it is unknown to the plaintiff.

NOTE: The Return of Service Form includes space for the Defendant's date of birth in the event it is necessary for law enforcement to obtain this information.

H. FAXBACK SYSTEM

PROTOCOL 17-19

All Protective Orders, the related original Petition for a Protective Order, and a Data Sheet are imaged and stored on a fax server, indexed by PNO. The Protective Order fax server is programmed to send copies of Protective Orders to New Hampshire law enforcement agencies that have previously registered their fax numbers with the New Hampshire Judicial Branch. This feature provides law enforcement personnel with access to Protective Orders 24/7 and ensures that unauthorized personnel do not have access to sensitive information.

PROTOCOL 17-20

The NH courts can retrieve Protective Orders from the fax server provided that they know the PNO of the Protective Order. The courts do not have access to any of the above registries. However, a new case management system is being deployed that will include the ability for court staff across the state to find Protective Orders issued or registered in any court in NH and the related PNO.