

Restraining Orders

“You ought to get a restraining order.” That is the advice many will offer to friends or colleagues having to deal with a person who is harassing them or appears to them to pose an undefined threat to their physical safety. At first glance, this may sound like good advice for all such situations.

However, in Alabama, restraining orders are available only in limited circumstances. In criminal cases, they may be imposed as an additional set of conditions placed on a defendant in a criminal domestic violence case at the time bond is made. Or they may be imposed as a part of the sentence or pending the outcome of a criminal case. In civil cases, such as those involving domestic relations disputes, restraining orders may be issued in the form of a family court judge’s protective order to prevent abuse of a current or former spouse, parent, child, blood relative, any person with whom the defendant has a child in common, or a present or former household member. Finally, a restraining order may be issued by a judge pertaining to a party involved in on-going civil litigation.

Those who violate restraining orders are subject to being found in civil contempt of court. Usually such a finding will require a hearing. Only in extreme cases will a judge find a party violating a restraining order to be in criminal contempt and order arrest.

In reality, restraining orders are far from a panacea. Their availability is relatively limited and their enforcement is often expensive and time consuming.