

Appendix R Custody in Protection Orders Proceedings¹

By Rafaela Rodrigues and Leslye E. Orloff

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Custody awards are standard provisions included when the court issues protection orders to victim who have children. Addressing custody in a protection order proceedings strengthens the effectiveness of the protection order because it places court ordered controls and can place limitations on the extent to which the perpetrator can have discussions or contact with the victim regarding custody and visitation. The vast majority of state protection order statutes explicitly authorize courts to include child custody awards in civil protection orders issued by state courts. Only three state statutes, Arizona, Oklahoma and Wisconsin, fail to allow protection orders to include child custody awards.

In both protection orders brought on behalf of child abuse victims and protection orders brought by domestic violence victims best practices for protection of victims of domestic violence and child abuse is to include custody awards to the victim who is the non-abusive parent as a routine provisions in civil and criminal protection orders issued by state courts.³ It has long be recognized that placing children in the custody of domestic violence perpetrator parents is detrimental⁴ and have tragic consequences⁵ for children. Research into the neurobiology of child brain development and its effects on the physical and emotional development of children has identified how both child abuse and witnessing domestic violence perpetrated against a parent are each harmful to children’s growth and development.⁶ Including child custody awards in civil and criminal protection orders is a best

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² Reports are labeled with the date of last update. If you reach a conclusion that conflicts with the material herein, you can contribute to our knowledge by sending an email to info@niwap.org.

³ Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 HOFSTRA L. REV. 801, 949-965 (1993); See National Council of Juvenile and Family Court Judges, *Custody and Visitation in Civil Protection Orders* (2017); National Council of Juvenile and Family Court Judges, *Civil Protection Orders: A Guide for Improving Practice* (2010); National Council of Juvenile and Family Court Judges, *Family Violence: A Model State Code* (1994); Leslye Orloff *et. al.* *Chapter 3: Battered Immigrants and Civil Protection Orders in*, in NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT & LEGAL MOMENTUM, *BREAKING BARRIERS: A COMPLETE GUIDE TO LEGAL RIGHTS AND RESOURCES FOR BATTERED IMMIGRANTS 1-37* (2013), <http://niwaplibrary.wcl.american.edu/manual/breaking-barriers/>

⁴“Expressing the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of an abusive parent.”; “Whereas joint custody guarantees the batterer continued access and control over the battered spouse’s life through their children; [] Whereas joint custody forced upon hostile parents can create a dangerous psychological environment for a child; Whereas the effects of spouse abuse on children include actual and potential emotional and physical harm, the negative effects of exposure to an inappropriate role model, and the potential for future harm where contact with the batterer continues [...] That it is the sense of the Congress that, for purposes of determining child custody, evidence of spousal abuse should create a statutory presumption that it is detrimental to the child to be placed in the custody of the abusive parent.” H.R. Con. Res. 172, 101st Cong., 2d Sess., 104 Stat. 5183 (1990)

⁵ National Council of Juvenile and Family Court Judges, *Family Violence: A Model State Code*, 9 (1994).

⁶*Appendix E: Understanding the Significance of a Minor’s Trauma History in Family Court Proceedings*, in NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT, *SPECIAL IMMIGRANT JUVENILE STATUS BENCH BOOK: A NATIONAL GUIDE TO BEST PRACTICES FOR JUDGES AND COURTS* (2017) [hereinafter SIJS Bench Book], <http://niwaplibrary.wcl.american.edu/pubs/appendix-e-effects-of-trauma-on-minors-fact-sheet/>; See Linda Chamberlain, Dr. Linda Chamberlain: A Trauma-informed Approach to ACEs - *Building Resilient Communities*, *Engaging Voices* (Nov 12, 2014), <https://www.youtube.com/watch?v=gRTwoJsNhGE>; Lynn Hecht Schafran, *Domestic Violence, Developing Brains, and the Lifespan: New Knowledge from Neuroscience*, 53 JUDGES J. 32, 37 (2014); <https://www.cdc.gov/violenceprevention/acestudy/index.html>

National Immigrant Women’s Advocacy Project (NIWAP, pronounced *new-app*)

American University, Washington College of Law

4300 Nebraska Avenue NW · Washington, D.C. 20016

(o) 202.274.4457 · info@niwap.org · wcl.american.edu/niwap ·

practice that protects children and their domestic violence victim parents from ongoing abuse in the context of child custody and visitation.⁷

Since custody awards to non-abusive victim parents is a standard part of civil protection orders issued by state courts across the country, civil protection orders containing custody awards provide an excellent opportunity for state courts to issue Special Immigrant Juvenile Status findings. When state protection order courts award custody of immigrant children who have experienced child abuse, abandonment or neglect by a parent and the child is not a citizen or lawful permanent resident, issuance of a protection order is an opportunity to include in the order SIJS findings that benefit and protect immigrant children. Some children may have also suffered from having witnessed domestic violence perpetrated by one parent against the other.

This document provides a state-by-state summary of the state laws that govern the inclusion of custody awards when state courts issue civil protection orders on behalf of domestic violence and child abuse⁸ victims. Civil protection orders are referred to by different titles under different state laws. In several states, civil protection orders are titled injunctions or restraining orders. State laws authorize protection order courts to award custody of children the parties share in common as an important provision of the protection order issued by the state court.

Custody provisions in state protection order statutes remain in place permanently for the duration of the protection order and any extensions of that protection even though in many state statutes label these custody provisions “temporary.” The custody award issued as part of a civil or criminal protection order remains in effect governing custody for the children and their parents unless and until one of the parents files a separate custody action and the state court issues a custody award in that state custody action. In most cases involving families experiencing domestic violence or child abuse the outcome applying state best interest factors in the custody case will be the same custody award to the non-abusive parent issued in the protection order proceeding. When the subsequent custody order is issued in a case where the previously issued protection order contained SIJS findings, courts should consider consolidating the cases or stating in the order in the custody case that the custody court is continuing or adopting the findings made by the protection order court and incorporating them into the final custody award. This will assist children pursuing SIJS immigration relief based on those court orders.

The state-by-state chart below tracks the provisions of each state’s protection order law that authorizes awards of custody to the parent who is receiving protection under the civil protection order issued by the court. The list below was developed to help courts identify when other states have statutory language similar to their state statute. When state statutes are similar, case law in one jurisdiction can provide persuasive authority interpreting the statute that may be useful to state courts in a wide range of family court proceedings.

The information contained in this document will also be helpful to state court judges issuing findings that immigrant children need as a prerequisite to filing for Special Immigrant Juvenile Status

⁷ Gabrielle Davis et al., Practice Guides For Family Court Decision-Making In Domestic Abuse Related Child Custody Matters, Battered Women’s Justice Project (2015), <http://www.bwjp.org/resource-center/resource-results/practice-guides-for-family-court-decision-making-in-domestic-abuse-related-child-custody-matters.html>

⁸ See *Appendix N: Domestic Violence Includes Child Abuse and Child Neglect*, in NAT’L IMMIGRANT WOMEN’S ADVOCACY PROJECT, SIJS Bench Book, <http://niwaplibrary.wcl.american.edu/pubs/appendix-n-domestic-violence-abuse-and-neglect/>.

(SIJS). Any immigrant child who is not a citizen or lawful permanent resident of the United States who come before the court in civil protection order proceedings could be eligible for SIJS. The child would be eligible for SIJS if the facts of the civil protection order case support factual findings that the child was abused, abandoned, neglected or similarly harmed under state law by at least one of the child’s parents. Many protection order cases involving immigrant that state court judges hear could be cases in which SIJS orders could be issued on the child’s behalf. In order to be considered an eligible juvenile for SIJS, each application with USCIS for SIJS must include a predicate state court order from a court with jurisdiction. The court must have jurisdiction under state law to make judicial determinations about the custody, care, or placement of the child or juvenile making specific findings about the welfare of the child. Thus, any custody award under state civil protection order laws could include the findings immigrant children need to obtain from a state court to be eligible for file for SIJS immigration law protection.

State Civil Protection Order Remedies Include Child Custody Awards

Jurisdiction	Can CPO address custody or possession of a child?	Text of the statute or case law
Alabama	Yes	Ala. Code § 30-5-7 (4) Award temporary custody of any children of the parties.
Alaska	Yes	Alaska Stat. Ann. § 18.66.100 (9) award temporary custody of a minor child to the petitioner and may arrange for visitation with a minor child if the safety of the child and the petitioner can be protected; if visitation is allowed, the court may order visitation under the conditions provided in AS 25.20.061.
Arizona	No	Comment: Arizona does not permit award custody in protection order cases. However, if it has a custody case pending in Family Court, upon request of a party, the officer must transfer the case from civil court to family court, where the custody case is being held. Nevertheless, no custody order can be made in the order of protection itself. CPO can allow contact consistent with an existing custody or parenting time order but cannot expand it.
Arkansas	Yes	A.C.A. § 9-15-205 (3)(A) Award temporary custody or establish temporary visitation rights with regard to minor children of the parties.
California	Yes	Cal. Fam. Code § 6323 The court may issue an ex parte order determining the temporary custody and visitation of a minor child on the conditions the court determines to a party who has established a parent and child relationship pursuant to paragraph (2). The parties shall inform the court if any custody or visitation orders have already been issued in any other proceeding. Cal. Fam. Code § 6340 (a) Ex parte orders; Reason given for denial; Order excluding party from a dwelling The court may issue any of the orders described in Article 1 (commencing with Section 6320) after notice and a hearing. When determining whether to make any orders under this subdivision, the court shall consider whether failure to make

California		<p>any of these orders may jeopardize the safety of the petitioner and the children for whom the custody or visitation orders are sought. If the court makes any order for custody, visitation, or support, that order shall survive the termination of any protective order. The Judicial Council shall provide notice of this provision on any Judicial Council forms related to this subdivision.</p> <p>Comment: Custody orders in CPO are temporary. However, they can remain in effect unless and until they are modified in the CPO case or in a parallel family law action (divorce or paternity).</p>
Colorado	Yes	<p>Colo. Rev. Stat. § 13-14-105 (2) Any order for temporary care and control issued pursuant to subsection (1) of this section is governed by the “Uniform Child-custody Jurisdiction and Enforcement Act”, article 13 of title 14, C.R.S.</p> <p>Colo. Rev. Stat. Ann. § 14-13-311 (2) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this state, it may issue a warrant to take physical custody of the child. The petition must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by section 14-13-308(2).</p> <p>Comment: Colorado is one of 49 states to adopt UCCJEA. Therefore, the procedures therein cover personal jurisdiction issues, including child custody orders. Usually, if there has been no previous custody determinations before the CPO hearing the judge makes custody findings as part of the CPO. However, if there is previous determinations of custody, the new request of custody would be handled in the Family Court that first determined the custody.</p>
Connecticut	Yes	<p>Conn. Gen. Stat. § 46b-15 “...Such orders may include temporary child custody or visitation rights, and such relief may include, but is not limited to, an order enjoining the respondent from (1) imposing any restraint upon the person or liberty of the applicant; (2) threatening, harassing, assaulting, molesting, sexually assaulting or attacking the applicant; or (3) entering the family dwelling or the dwelling of the applicant. Such order may include provisions necessary to protect any animal owned or kept by the applicant including, but not limited to, an order enjoining the respondent from injuring or threatening to injure such animal. If an applicant alleges an immediate and present physical danger to the applicant, the court may issue an ex parte order granting such relief as it deems appropriate....”</p>
Delaware	Yes	<p>Del. Code Ann. tit. 10, § 1045 (5) Grant temporary custody of the children of the parties to the petitioner or to another family member.</p>
District of Columbia	Yes	<p>D.C. Code Ann. § 16-1005 (6) Awards temporary custody of a minor child or children of the parties.</p>

Florida	Yes	<p>Fla. Stat. Ann. § 741.30 Providing a temporary parenting plan, including a temporary time-sharing schedule, with regard to the minor child or children of the parties which might involve prohibiting or limiting time-sharing or requiring that it be supervised by a third party.</p>
Georgia	Yes	<p>Ga. Code Ann. § 19-13-4 (4) Award temporary custody of minor children and establish temporary visitation rights.</p>
Hawaii	Yes	<p>Haw. Rev. Stat. Ann. § 586-5 The protective order may include all orders stated in the temporary restraining order and may provide further relief, as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention.</p> <p>Haw. Rev. Stat. Ann. § 586-5.5 Protective order; additional orders. If, after hearing all relevant evidence, the court finds that the respondent has failed to show cause why the order should not be continued and that a protective order is necessary to prevent domestic abuse or a recurrence of abuse, the court may order that a protective order be issued for a further fixed reasonable period as the court deems appropriate. The protective order may include all orders stated in the temporary restraining order and may provide for further relief as the court deems necessary to prevent domestic abuse or a recurrence of abuse, including orders establishing temporary visitation and custody with regard to minor children of the parties and orders to either or both parties to participate in domestic violence intervention services. If the court finds that the party meets the requirements under section 334-59(a)(2), the court further may order that the party be taken to the nearest facility for emergency examination and treatment.</p>
Idaho	Yes	<p>Idaho Code Ann. § 39-6308 Ex parte temporary protection order (c) Restraining any party from interfering with the other's custody of the minor children or from removing the children from the jurisdiction of the court</p> <p>Idaho Code Ann. § 39-6306 Hearing on petition for protection order--Relief provided and realignment of designation of parties Temporary custody of the minor children of the petitioner or of the parties be awarded to the petitioner or respondent if exercise of such jurisdiction is consistent with the provisions of section 32-11-204, Idaho Code, and consistent with prior custody orders entered by a court of competent jurisdiction unless grounds exist pursuant to section 32-717, Idaho Code.</p>
Illinois	Yes	<p>750 Ill. Comp. Stat. Ann. 60/214 (b)(6) (6) Temporary allocation of parental responsibilities: significant decision-making. Award temporary decision-making responsibility to petitioner in accordance with this Section, the Illinois Marriage and Dissolution of Marriage Act, the Illinois Parentage Act of 2015, and this State's Uniform Child-Custody Jurisdiction and Enforcement Act.</p>

Indiana	Yes	<p>Ind. Code Ann. § 34-26-5-9 (c) A court may grant the following relief after notice and a hearing, whether or not a respondent appears, in an order for protection or in a modification of an order for protection:</p> <ul style="list-style-type: none"> Specify arrangements for parenting time of a minor child by a respondent and: require supervision by a third party; or deny parenting time; if necessary to protect the safety of a petitioner or child.
Iowa	Yes	<p>Iowa Code Ann. § 236.5 (5) The awarding of temporary custody of or establishing temporary visitation rights with regard to children under eighteen.</p>
Kansas	Yes	<p>Kan. Stat. Ann. § 60-3107 (4) Awarding temporary custody and residency and establishing temporary parenting time with regard to minor children.</p>
Kentucky	Yes	<p>Ky. Rev. Stat. Ann. § 403.740 (West) 2. Utilizing the criteria set forth in KRS 403.270, 403.320, and 403.822, grant temporary custody.</p>
Louisiana	Yes	<p>La. Stat. Ann. § 46:2135 § 2135. Temporary restraining order (5) Awarding temporary custody of minor children or persons alleged to be incompetent.</p> <p>La. Stat. Ann. § 46:2136 § 2136. Protective orders (3) Awarding temporary custody of or establishing temporary visitation rights and conditions with regard to any minor children or person alleged to be incompetent.</p>
Maine	Yes	<p>Me. Rev. Stat. tit. 19-A, § 4007 Relief granted under this section may include:</p> <p>G. Either awarding some or all temporary parental rights and responsibilities with regard to minor children or awarding temporary rights of contact with regard to minor children, or both, under such conditions that the court finds appropriate as determined in accordance with the best interest of the child pursuant to section 1653, subsections 3 to 6-B. The court's award of parental rights and responsibilities or rights of contact is not binding in any separate action involving an award of parental rights and responsibilities pursuant to chapter 551 or in a similar action brought in another jurisdiction exercising child custody jurisdiction in accordance with the Uniform Child Custody Jurisdiction and Enforcement Act.</p>
Maryland	Yes	<p>Md. Code Ann., Fam. Law § 4-506 (West) (7) award temporary custody of a minor child of the respondent and a person eligible for relief.</p>

Massachusetts	Yes	<p>Mass. Gen. Laws Ann. ch. 209A, § 3 (West) (d) awarding the plaintiff temporary custody of a minor child; provided, however, that in any case brought in the probate and family court a finding by such court by a preponderance of the evidence that a pattern or serious incident of abuse, as defined in section 31A of chapter 208, toward a parent or child has occurred shall create a rebuttable presumption that it is not in the best interests of the child to be placed in sole custody, shared legal custody or shared physical custody with the abusive parent. Such presumption may be rebutted by a preponderance of the evidence that such custody award is in the best interests of the child. For the purposes of this section, an “abusive parent” shall mean a parent who has committed a pattern of abuse or a serious incident of abuse; (...)</p>
Michigan	Yes	<p>“Moreover, the trial court had statutory authority to restrict respondent's contact with his children. MCL 600.2950, the statute pertaining to personal protection orders, allows a court to restrain an individual from doing various acts. MCL 600.2950(1)(j) is directly applicable to the instant case and provided the trial court with authority to issue the PPO prohibiting respondent's contact with the children. This “catchall” provision clearly provides the trial court with authority to restrain respondent from any other action that “interferes with personal liberty” or might cause “a reasonable apprehension of violence.” <u>Brandt v. Brandt</u>, 250 Mich. App. 68, 70, 645 N.W.2d 327, 329 (2002)</p> <p>Comment: In Michigan CPO can address temporary custody. The Court of Appeals in 2002 held that the statute MCL 600.2950 allowed a court to restrain an individual from doing several acts. The statute, therefore, provide the trial court with the authority to restrain a perpetrator from any parenting time or contact with a child, justified by reasonable apprehension of violence.</p>
Minnesota	Yes	<p>Minn. Stat. Ann. § 518B.01 (4) award temporary custody or establish temporary parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. In addition to the primary safety considerations, the court may consider particular best interest factors that are found to be relevant to the temporary custody and parenting time award. Findings under section 257.025, 518.17, or 518.175 are not required with respect to the particular best interest factors not considered by the court. If the court finds that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted parenting time, the court shall condition or restrict parenting time as to time, place, duration, or supervision, or deny parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and parenting time shall in no way delay the issuance of an order for protection granting other relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection.</p>
Mississippi	Yes	<p>Miss. Code. Ann. § 93-21-15 (iv) Awarding temporary custody of or establishing temporary visitation rights with regard to any minor children or any person alleged to be incompetent, or both.</p>

Missouri	Yes	Mo. Ann. Stat. § 455.050 Award custody of any minor child born to or adopted by the parties when the court has jurisdiction over such child and no prior order regarding custody is pending or has been made, and the best interests of the child require such order be issued.
Montana	Yes	Mont. Code Ann. § 40-15-201 - Temporary order of protection (2) Upon a review of the petition and a finding that the petitioner is in danger of harm if the court does not act immediately, the court shall issue a temporary order of protection that grants the petitioner appropriate relief. The temporary order of protection may include any or all of the following orders: (j) directing other relief considered necessary to provide for the safety and welfare of the petitioner or other designated family member. Comment: Montana can award temporary custody in CPO. Individuals seeking and order of protection can file in either a lower municipal/city/Justice Court, which has limited jurisdiction, or in District Court. However, if a custody and/or dissolution case is already pending in District Court, a CPO between the same parties must be filed in District Court. Parents may include their minor children as protected persons on their Petitions for Temporary Orders of Protection, whether the children are those of the respondent or not.
Nebraska	Yes	Neb. Rev. Stat. Ann. § 42-924 (f) Awarding the petitioner temporary custody of any minor children not to exceed ninety days.
Nevada	Yes	Nev. Rev. Stat. Ann. § 33.030 (d) If it has jurisdiction under chapter 125A of NRS, grant temporary custody of the minor child to the applicant.
New Hampshire	Yes	N.H. Rev. Stat. Ann. § 173-B:4 (4) Awarding custody of minor children to either party or, upon actual notice, to the department when it is in the best interest of a child.
New Jersey	Yes	N.J. Stat. Ann. § 2C:25-29 (5) In determining custody and parenting time the protection of the victim's safety.
New Mexico	Yes	N.M. Stat. Ann. § 40-13-3.2 Ex parte emergency orders of protection (3) grant temporary custody of any minor child in common with the parties to the protected party, if necessary. N.M. Stat. Ann. § 40-13-5 Permanent Order of protection (2) award temporary custody of any children involved when appropriate and provide for visitation rights, child support and temporary support for the protected party on a basis that gives primary consideration to the safety of the protected party and the children.

New York	Yes	N.Y. Fam. Ct. Act § 842 The court may also award custody of the child, during the term of the order of protection to either parent, or to an appropriate relative within the second degree. Nothing in this section gives the court power to place or board out any child or to commit a child to an institution or agency.
North Carolina	Yes	N.C. Gen. Stat. Ann. § 50B-3 In awarding custody or visitation rights, the court shall base its decision on the best interest of the minor child with particular consideration given to the safety of the minor child.
North Dakota	Yes	N.D. Cent. Code Ann. § 14-07.1-02 c. Awarding temporary custody or establishing temporary visitation rights with regard to minor children.
Ohio	Yes	Ohio Rev. Code Ann. § 3113.31 (d) Temporarily allocate parental rights and responsibilities for the care of, or establish temporary parenting time rights with regard to, minor children, if no other court has determined, or is determining, the allocation of parental rights and responsibilities for the minor children or parenting time rights.
Oklahoma	No	Okla. Stat. Ann. tit. 22, § 60.4 1. A protective order issued under the Protection from Domestic Abuse Act shall not in any manner affect title to real property, purport to grant to the parties a divorce or otherwise purport to determine the issues between the parties as to child custody , visitation or visitation schedules, child support or division of property or any other like relief obtainable pursuant to Title 43 of the Oklahoma Statutes, except child visitation orders may be temporarily suspended or modified to protect from threats of abuse or physical violence by the defendant or a threat to violate a custody order. Orders not affecting title may be entered for good cause found to protect an animal owned by either of the parties or any child living in the household. Comment: Although the law forbids from awarding custody or visitation in a protective order case, Judges are able to modify pre-existing visitation orders within the protective order context. E.g., the judge could modify the pre-existing visitation by allowing the father only professionally supervised visitation under the protective order. The judge is still prohibited by this statute from modifying the joint custody provision.
Oregon	Yes	Or. Rev. Stat. Ann. § 107.718 Except as provided in subsection (2) of this section, that temporary custody of the children of the parties be awarded to the petitioner or, at the request of the petitioner, to the respondent, subject to reasonable parenting time rights of the noncustodial parent, which the court shall order, unless such parenting time is not in the best interest of the child.

<p>Pennsylvania</p>	<p>Yes</p>	<p>23 Pa. Stat. and Cons. Stat. Ann. § 6108</p> <p>(4) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children. In determining whether to award temporary custody or establish temporary visitation rights pursuant to this paragraph, the court shall consider any risk posed by the defendant to the children as well as risk to the plaintiff. The following shall apply:</p> <p>(i) A defendant shall not be granted custody, partial custody or unsupervised visitation where it is alleged in the petition, and the court finds after a hearing under this chapter, that the defendant:</p> <p>(A) abused the minor children of the parties or poses a risk of abuse toward the minor children of the parties; or</p> <p>(B) has been convicted of violating 18 Pa.C.S. § 2904 (relating to interference with custody of children) within two calendar years prior to the filing of the petition for protection order or that the defendant poses a risk of violating 18 Pa.C.S. § 2904.</p> <p>(ii) Where the court finds after a hearing under this chapter that the defendant has inflicted abuse upon the plaintiff or a child, the court may require supervised custodial access by a third party. The third party must agree to be accountable to the court for supervision and execute an affidavit of accountability.</p> <p>(iii) Where the court finds after a hearing under this chapter that the defendant has inflicted serious abuse upon the plaintiff or a child or poses a risk of abuse toward the plaintiff or a child, the court may:</p> <p>(A) award supervised visitation in a secure visitation facility; or</p> <p>(B) deny the defendant custodial access to a child.</p> <p>(iv) If a plaintiff petitions for a temporary order under section 6107(b) (relating to hearings) and the defendant has partial, shared or full custody of the minor children of the parties by order of court or written agreement of the parties, the custody shall not be disturbed or changed unless the court finds that the defendant is likely to inflict abuse upon the children or to remove the children from the jurisdiction of the court prior to the hearing under section 6107(a). Where the defendant has forcibly or fraudulently removed any minor child from the care and custody of a plaintiff, the court shall order the return of the child to the plaintiff unless the child would be endangered by restoration to the plaintiff.</p> <p>(v) Nothing in this paragraph shall bar either party from filing a petition for custody under Chapter 53 (relating to custody) or under the Pennsylvania Rules of Civil Procedure.</p> <p>(vi) In order to prevent further abuse during periods of access to the plaintiff and child during the exercise of custodial rights, the court shall consider, and may impose on a custody award, conditions necessary to assure the safety of the plaintiff and minor children from abuse.</p>
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Rhode Island	Yes	15 R.I. Gen. Laws Ann. § 15-15-3 (3) Awarding the plaintiff custody of the minor children of the parties, if any
South Carolina	Yes	S.C. Code Ann. § 20-4-60 Award temporary custody and temporary visitation rights with regard to minor children living in the home over whom the parties have custody.
South Dakota	Yes	S.D. Codified Laws § 25-10-5 (3) Award temporary custody or establish temporary visitation with regards to minor children of the parties.
Tennessee	Yes	Tenn. Code Ann. § 36-3-606 (6) Awarding temporary custody of, or establishing temporary visitation rights with regard to, any minor children born to or adopted by the parties.
Texas	Yes	Tex. Fam. Code Ann. § 85.021 In a protective order, the court may: prohibit a party from: removing a child who is a member of the family or household from: the possession of a person named in the order; or the jurisdiction of the court; Comment: The Texas Family Code does not refer to custody, otherwise, authorize courts to define the possession of the child and access orders in the CPO. A permanent custody proceeding would need to comply with Chapters 152 and 153 of Tex. Fam. Code.
Utah	Yes	Utah Code Ann. § 78B-7-106 (f) grant to the petitioner temporary custody of any minor children of the parties.
Vermont	Yes	Vt. Stat. Ann. tit. 15, § 1104 (3) Upon a finding that there is immediate danger of physical or emotional harm to minor children, the Court may award temporary custody of these minor children to the plaintiff or to other persons.
Virginia	Yes	Va. Code Ann. § 16.1-279.1 9. Any other relief necessary for the protection of the petitioner and family or household members of the petitioner, including a provision for temporary custody or visitation of a minor child.
Washington	Yes	Wash. Rev. Code Ann. § 26.50.060 (1) Order possession and use of essential personal effects. The court shall list the essential personal effects with sufficient specificity to make it clear which property is included. Personal effects may include pets. The court may order that a petitioner be granted the exclusive custody or control of any pet owned, possessed, leased, kept, or held by the petitioner, respondent, or minor child residing with either the petitioner or respondent and may prohibit the respondent from interfering with the petitioner's efforts to remove the pet. The court may also prohibit the respondent from knowingly coming within, or knowingly remaining within, a specified distance of specified locations where the pet is regularly found. Wash. Rev. Code Ann. § 26.50.060 (1) d) On the same basis as is provided in chapter 26.09 RCW, the court shall make residential provision with regard to minor children of the parties. However,

Washington		parenting plans as specified in chapter 26.09 RCW shall not be required under this chapter; (h) Restrain the respondent from having any contact with the victim of domestic violence or the victim's children or members of the victim's household.
West Virginia	Yes	W. Va. Code § 48-27-503 (3) Awarding temporary custody of or establishing temporary visitation rights with regard to minor children named in the order; (4) Establishing terms of temporary visitation with regard to the minor children named in the order including, but not limited to, requiring third party supervision of visitations if necessary to protect the petitioner and/or the minor children.
Wisconsin	No	Comment: Wisconsin does not allow custodial orders in protection orders proceedings, except for Child Abuse CPO (Wisconsin statute call them Injunctions). Under Wis. Stat. Sec. 813.122(5) (b), the court shall award the parent/defendant reasonable visitation rights if the victim/petitioner is that person's child.
Wyoming	Yes	Wyo. Stat. Ann. § 35-21-105 When the court finds it to be in the best interests of the children, award temporary custody of any children involved to the petitioner. The court shall in this instance provide for visitation with the respondent only if adequate provision can be made for the safety of the children and the petitioner. To provide for the safety of the children and the petitioner, the court may: (A) Order an exchange of children to occur in a protected setting; (B) Order that visitation be arranged and supervised by another person or agency, and if the other person is a family or household member, establish conditions to be followed during the visitation; (C) Order the respondent to attend and complete to the court's satisfaction a program of intervention or other designated counseling as a condition of visitation; (D) Order the respondent to abstain from the consumption of alcohol or controlled substances for up to twenty-four (24) hours before the visitation and during the visitation; (E) Order the respondent to pay a fee through the court to defray the costs of supervised visitation; (F) Prohibit overnight visitation; (G) Require the respondent to post a bond to secure the return and safety of any children; or (H) Impose any other condition it deems necessary for the safety of the petitioner, the children, or other family or household member.