

# Frequently Asked Questions About Domestic Abuse Protection Orders

## What is a Domestic Abuse Protection Order (DAPO)?

A domestic abuse protection order is a civil court order that may enhance the safety of some victims of abuse. It is specifically designed to help people who are being abused by someone to whom they are married, or with whom they are in a dating or other intimate relationship, or in a close family relationship.

## Who can get a DAPO?

Not just anyone is eligible for a DAPO. Only those people who are being abused by someone in very specific relationships will qualify for a DAPO. The following graphic lists the relationships and the behaviors which are considered abuse under Mississippi law.

RELATIONSHIP	BEHAVIORS
<ul style="list-style-type: none"><li>• Current or former spouses</li><li>• People living as spouses or who formerly lived as spouses</li><li>• People having any children together</li><li>• People related by blood or marriage who reside together or formerly resided together</li><li>• People in a current or former dating relationship</li></ul>	<ul style="list-style-type: none"><li>• Attempting to cause or causing bodily injury</li><li>• Placing, by physical menace or threat, another in fear of imminent serious bodily injury</li><li>• Criminal sexual conduct against a minor</li><li>• Stalking</li><li>• Cyberstalking</li><li>• Sexual Battery</li><li>• Rape</li></ul>

Before a court will issue a DAPO, the court must not only determine that a qualifying relationship exists, but must also find that you are a victim of one or more of the abusive behaviors listed.

## What can a DAPO do for me?

A DAPO can require the abuser to do, or not to do, certain things that place you in fear or danger. For instance, a DAPO can require the abuser to stay away from your home, your place of employment or school. A DAPO can prohibit the abuser from contacting you in person, by phone, or by computer. Depending on the circumstances, a DAPO may also include other provisions that may help you. REMEMBER that a DAPO is a court order – it is not a guarantee of safety. A DAPO can, however, be a useful tool as part of your safety plan, as law enforcement officers are required by law to enforce DAPOS and make arrests for knowing violations.

## How long is a DAPO effective?

The answer to this question depends on what type of order you are requesting. There are three different types of DAPOs: Emergency, Temporary and Final. Each can do similar things, but each one has a different time frame:

Emergency: Emergency DAPOs can be issued by municipal, justice and county courts, and, in limited circumstances, chancery courts, and are good for up to ten (10) days, unless extended by the court. Emergency orders are issued without a full hearing. If granted, your abuser will be notified that an order has been issued and given the date of the hearing where he/she is to appear and dispute your allegations of abuse.

Temporary: Temporary DAPOs can be issued by municipal and justice courts only after a hearing to which your abuser will be summoned to appear to give evidence. Temporary DAPOs are good for a maximum of thirty (30) days.

Final: Final DAPOs can be issued by only county and chancery courts after a hearing, and can be good for as long as the judge determines is appropriate.

## Can a DAPO protect my children, even if they have not been physically abused?

Yes. Even if your children have not been physically abused, you may request that they be included in the DAPO on the basis that your abuser's threats or violent conduct place your children at risk. Other designated household members may also be included, if the court determines that such other person may be in danger of future harm due to your abuser's violent tendencies.

## **Can a DAPO protect a minor who has been abused?**

Yes. People under the age of 18 may be victims of abuse, and a protection order can be obtained on their behalf by a parent, adult household member, or next friend. Note: For purposes of this guide, the term minor means a person who has not reached his/her eighteenth birthday. A person who has not reached his/her eighteenth birthday but is on active duty for a branch of the armed services or is married is NOT considered a “child” or “minor” for the purposes of this guide.

## **Can I get a DAPO against a minor?**

Yes. Just as young people may be victims of abuse, young people may also be perpetrators of abuse. It is not necessary to go to Youth Court to obtain a protection order against a minor.

## **Can I get a DAPO on behalf of another adult?**

If the adult for whom you are seeking protection is incompetent (this may be mental incompetence or physical incompetence), a parent, adult household member or next friend can request a DAPO on behalf of that person.

## **Can I get protection right away?**

Yes, in some circumstances. If you are in immediate and present danger of abuse by your abuser, the judge may authorize emergency relief and grant an Emergency Order. This is an order that will give you protection until a hearing can be held. It is VERY IMPORTANT to keep in mind that this type of order lasts a maximum of ten (10) days and may only be extended by the court. Note that the circumstances in which a court will extend an emergency order are very limited. You must ask the court to extend the order, otherwise it will expire at the end of that ten (10) days. The judge is not required to issue emergency relief – you must prove you are in immediate and present danger.

## **Will I have to go to court?**

Yes. When you ask the court for a DAPO by filing a petition for protection, a hearing will automatically be set. The court clerk or court administrator will let you know the date and time of the hearing. The purpose of this hearing is to allow the judge to hear evidence from both sides. Be prepared to testify in court regarding the allegations of abuse. The Respondent (abuser) has a right to be in the courtroom and will hear your testimony. It is very important that you attend the hearing, even if you have already been given an emergency order. If you fail to appear for that hearing, the Court will dismiss your petition requesting protection, and any emergency orders which are in place will expire.

You are permitted to bring witnesses (including law enforcement officers) with you to the hearing who can testify to the facts about the abuse or resulting injuries. You should ask the court clerk about how to request a subpoena for your witnesses. You may also bring photographs, medical records or other evidence of the abuse.

### **Will my abuser know I have asked for a protection order?**

Yes. When you ask the court for a DAPO, your abuser will be served with a Summons to appear in court for the hearing. They will also be provided a copy of your request for protection, and any emergency order that was issued.

### **How much does it cost to get a DAPO?**

It costs nothing to file a request for a DAPO with the court. At the time the request is made, a person asking for a DAPO does not have to pay any filing fees, fees for service of process, or fees for subpoenas for witnesses. At the hearing, the judge can decide to make one party pay. If a DAPO is issued, the judge can order the abuser to pay. However, if the judge determines that you are NOT a victim of domestic abuse, the judge may order you to pay those costs.

### **How do I ask for a protection order?**

There is a specific form that can be used to ask for a DAPO. That form is called a “petition.” This petition should explain for the court how you are a victim of domestic abuse, your relationship with your abuser, and why you need protection from your abuser. Please refer to the Instructions for Completing a Petition, which are part of this guide.

### **Where can I get a Petition?**

A petition can be obtained from the court clerk’s office, or on the Mississippi Attorney General’s Office website at [www.agjimhood.com](http://www.agjimhood.com).

### **Where do I file the Petition?**

A Petition seeking protection from domestic abuse can be filed in several different courts in Mississippi. Municipal courts, justice courts, county courts and chancery courts all have the authority to issue DAPOs. County and chancery courts have different powers than municipal and justice courts, however. If you are seeking a final order, the petition should be filed in county or chancery court, as only those courts can issue final orders.

NOTE: In general, a person seeking **emergency relief** will need to file his or her petition in municipal, justice or county court. A request for emergency relief should not be filed in chancery court unless the request arises during an ongoing chancery matter or when other

factors make it necessary to file in chancery court. Ongoing chancery matters may include, but are not limited to, a pending divorce or child custody action. The chancery judge may determine it is appropriate to hear a request for emergency relief when no other court is available.

In addition to filing in the right court, you must also file the petition in the correct county or municipality. Generally, where the abuse occurred or where your abuser resides will be the proper place to file. If filing in chancery court, however, the petition must be filed in the chancery court of the county where the respondent (the abuser) resides. If you are unsure of the correct location to file your Petition, you may want to consult a lawyer.

### **Do I need to hire a lawyer to get a DAPO?**

No, there is no requirement in the law that you hire a lawyer. Anyone is entitled to represent himself or herself in a court proceeding. If you are unsure how to do this, or need help, it may be advisable to seek advice from a lawyer. The court clerk cannot give you legal advice. Your local domestic violence program may be able to provide you with names of lawyers, or their staff may be able to provide you with non-legal assistance in this process.

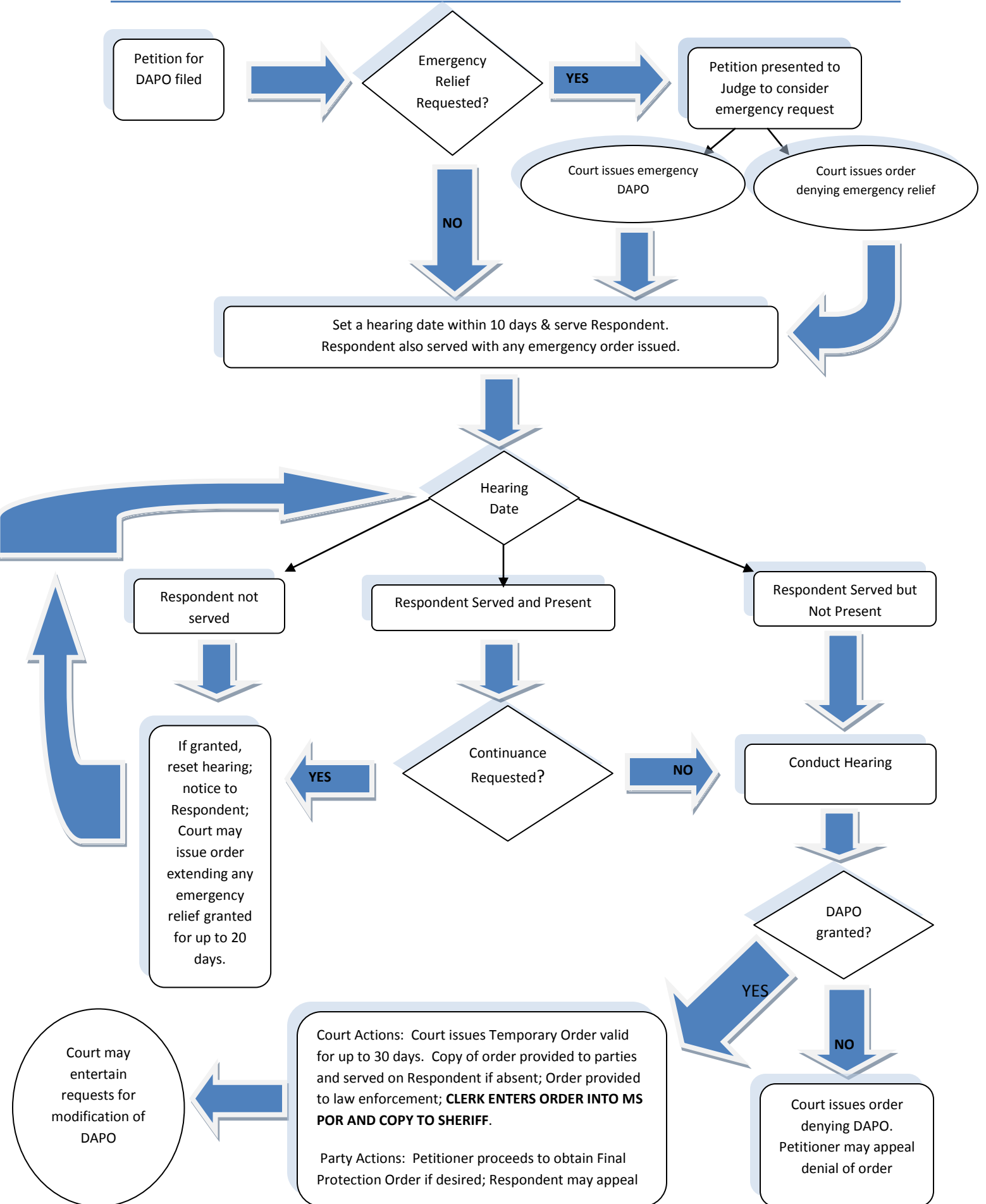
### **What do I do if my DAPO is violated?**

If you have obtained a DAPO against your abuser, and a provision of that order is violated by your abuser, you should report this to the sheriff's department or police department. A knowing violation of a valid DAPO is considered a crime in Mississippi, and law enforcement officers have the power to arrest for such a violation. It is very important that you keep a copy of your DAPO with you at all times – this will help the law enforcement officer determine whether the order is valid and if your abuser violated it.

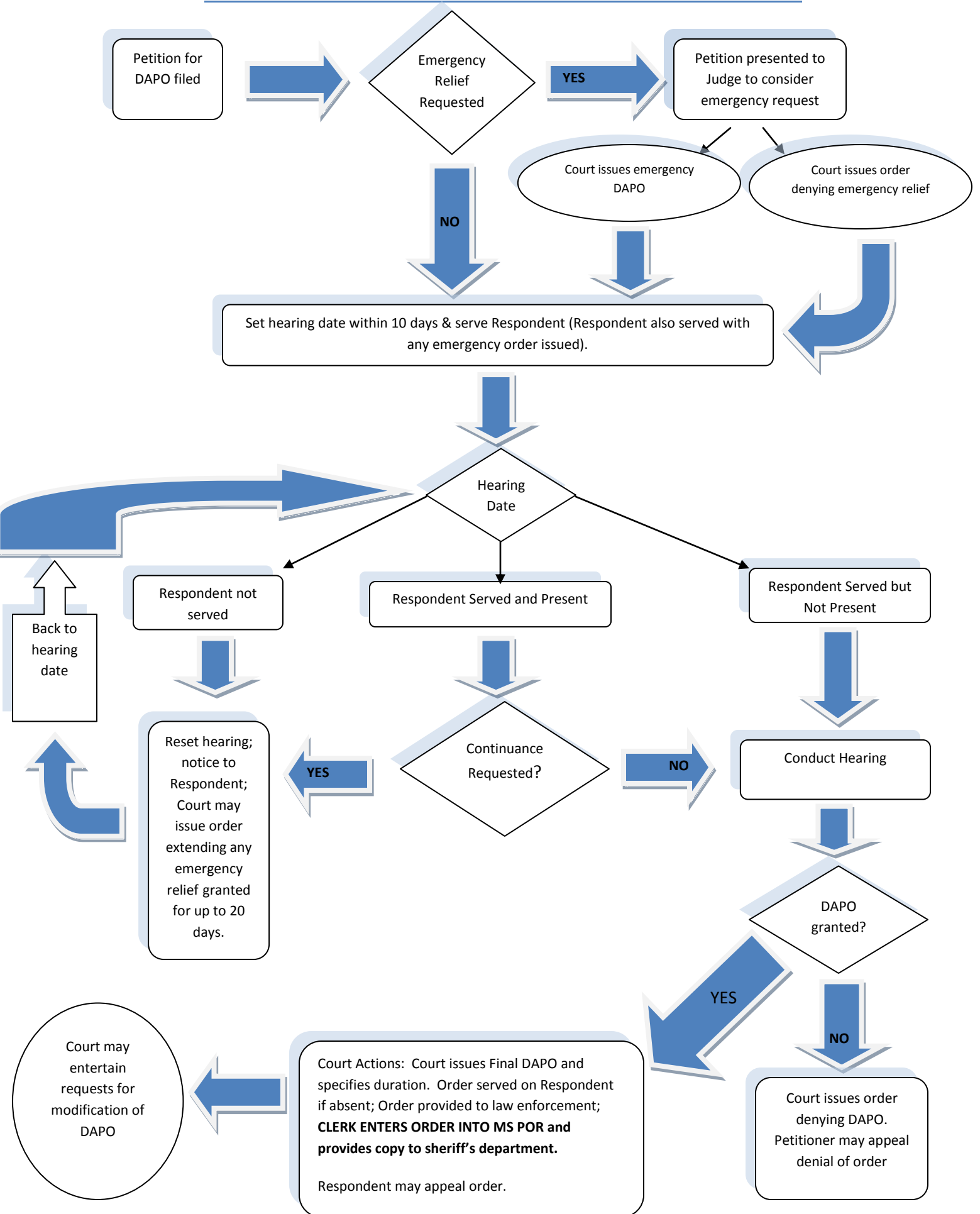
NOTE: Once a DAPO is issued, it can only be changed by the court that issued it. **You cannot legally give the Respondent permission to violate the order.** Even though the order is not against you, you should try not to do anything intentionally that would put the Respondent in violation, like calling, texting or e-mailing him or her, going to the Respondent's home or place of work, or inviting the Respondent to your home. You should make every effort to avoid putting yourself in dangerous situations. If you want to change any part of the order, you will need to return to the court that issued it to ask for that change.

**ALWAYS REMEMBER:**  
**If you are in immediate danger, call 911.**

# MISSISSIPPI EMERGENCY & TEMPORARY DOMESTIC ABUSE PROTECTION ORDER FLOW CHART



## MISSISSIPPI FINAL DOMESTIC ABUSE PROTECTION ORDER FLOW CHART



Petition for DAPO filed

Emergency Relief Requested

YES

Petition presented to Judge to consider emergency request

Court issues emergency DAPO

Court issues order denying emergency relief

NO

Set hearing date within 10 days & serve Respondent (Respondent also served with any emergency order issued).

Hearing Date

Respondent not served

Respondent Served and Present

Respondent Served but Not Present

Back to hearing date

Reset hearing; notice to Respondent; Court may issue order extending any emergency relief granted for up to 20 days.

YES

Continuance Requested?

NO

Conduct Hearing

DAPO granted?

YES

NO

Court may entertain requests for modification of DAPO

Court Actions: Court issues Final DAPO and specifies duration. Order served on Respondent if absent; Order provided to law enforcement; **CLERK ENTERS ORDER INTO MS POR and provides copy to sheriff's department.** Respondent may appeal order.

Court issues order denying DAPO. Petitioner may appeal denial of order