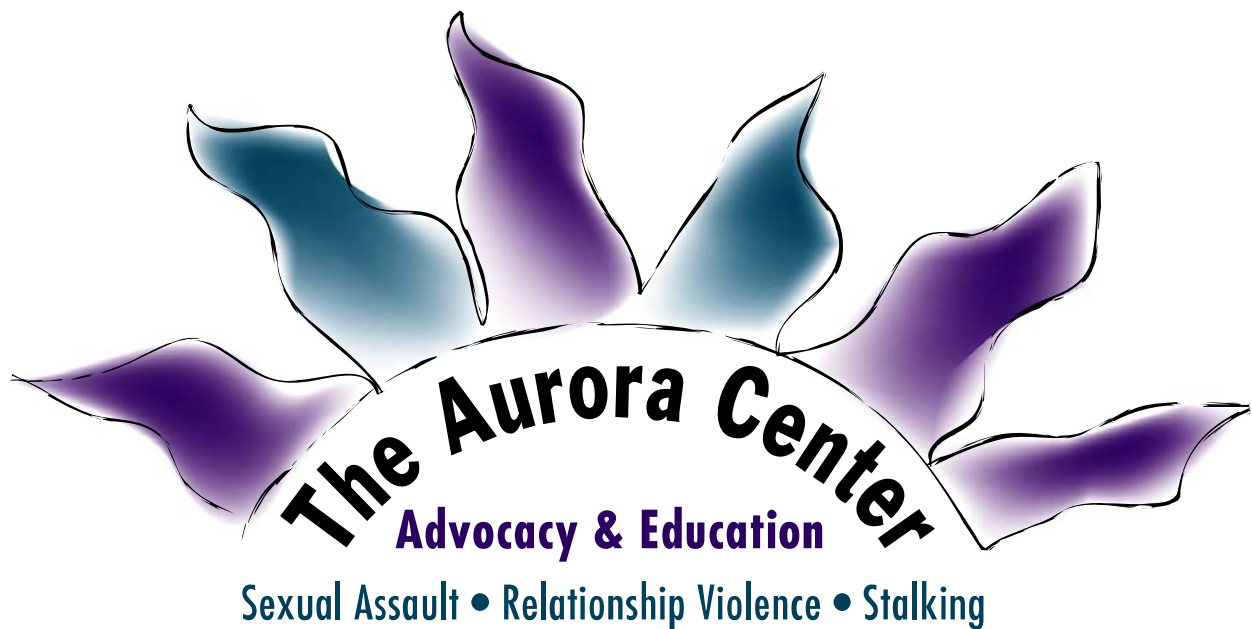


# Restraining Orders

## *Info Packet*



**The Aurora Center for Advocacy & Education**  
407 Boynton\*410 Church St SE\*Minneapolis, MN 55455  
Business Line: (612) 626-2929\*TTY Line: (612) 626-4279  
Email: [aurora.center@umn.edu](mailto:aurora.center@umn.edu)\*Website: [www.umn.edu/aurora](http://www.umn.edu/aurora)

UNIVERSITY OF MINNESOTA  
*Office for Student Affairs*

**24hr Crisis Line: (612) 626-9111**

The University of Minnesota is committed to the policy that all persons shall have equal access to its programs, facilities, and employment without regard to race, color, creed, religion, national origin, sex, age, marital status, disability, public assistance status, veteran status, or sexual orientation.





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## Restraining Order Policy

*Adopted October 20, 2000*

The Aurora Center for Advocacy and Education is committed to the belief that all people have the right to live free of violence and of the fear of violence. We recognize that sexual assault, relationship violence, and stalking are not isolated incidents, but rather the expressions of a pervasive attitude in which violence is acted out in a sexual or controlling manner. We believe that such violence can best be addressed through social action, education, and advocacy. The Aurora Center was formed to:

- ✓ Ensure quality of services to all segments of the University of Minnesota community and other agencies that victim/survivors may need to contact for assistance.
- ✓ Ensure the inclusion of the wide diversity of people of the University as staff, volunteers, and constituents of The Aurora Center.
- ✓ Ensure the effective communication between The Aurora Center and other organizations and people who are concerned about sexual assault, relationship violence, and stalking.
- ✓ Eliminate violence and other forms of oppression at the University of Minnesota and the community as a whole.

As part of this commitment, The Aurora Center is able to provide legal advocacy services to victim/survivors of sexual assault, relationship violence, and stalking.

Legal advocacy services include: assistance in writing and filing a Restraining Order (RO), accompaniment to court proceedings to obtain the RO, support while making optional police reports, and follow-up in determining whether a respondent has been served the restraining order papers. Because the University of Minnesota spans two counties, The Aurora Center provides services in both Ramsey and Hennepin counties.

If The Aurora Center is unable to assist a client in obtaining a restraining order, the office will refer the client to the nearest agency able to write and file a restraining order.

This information is available in alternative formats by calling The Aurora Center for Advocacy and Education at (612) 626-2929. The University of Minnesota is an equal opportunity educator and employer.



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# Terminology

**Petitioner:** Person requesting the restraining order – the victim/survivor.

**Respondent:** Alleged abusing or harassing person or group – the perpetrator.

**Referee:** Though not an elected judge, the referee has full authority to preside over restraining order hearings. You always refer to her/him as “Your Honor.”

**Civil Court:** Court that resolves issues between two private parties, which is different from criminal court. Civil court is presided over by a judge or referee and does not have a jury. OFPs and HROs are processed through the civil court system.

**Ex Parte Order (EPO):** A *temporary* order that a judge is able to sign without the knowledge or response of the respondent. It is only temporary, however. The EPO is good from the time the judge signs the EPO until the court hearing, which is usually a period of two weeks. The client then needs to go to court to get the *permanent* order granted by a judge.

**Order for Protection (OFP):** The permanent (up to one year) order signed after the hearing. An OFP applies to persons related by blood, have children in common, currently are or have been married, have lived together, and/or have a significant romantic or sexual relationship.

**Harassment Restraining Order (HRO):** The permanent (up to two years) order signed by the judge. A hearing is not required but can be requested by the Respondent or the judge. An HRO applies to persons who have a relationship to the Perpetrator that is not covered by an OFP. HROs usually apply to victim/survivors of harassment who do not have an intimate relationship with the Perpetrator, such as co-workers, friends, strangers, acquaintances, etc.

**In Forma Pauperis:** A form that is only filled out when filing an HRO. It is a petition to have the fee waived for the Harassment Restraining Order (\$245.00), and is good if you meet certain income requirements.

**Served:** When the respondent has been given notice of an EPO, OFP, or HRO against him/her.



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# Order for Protection

## WHAT IS DOMESTIC & DATING VIOLENCE?

- ❖ Includes bodily harm, or the fear of bodily harm, or terrorist threats or criminal sexual conduct between family members, household members, and individuals in a significant romantic or sexual relationship.
- ❖ Is not gender-specific, and can apply to male-female, female-male, male-male, or female-female violence.

## WHAT IS AN ORDER FOR PROTECTION?

- ❖ An order for protection (OFP) is a court order forbidding the Respondent (the alleged abusing party) from physically harming the Petitioner (person seeking the OFP) or any minor children in the home, or from causing fear of immediate physical harm.
- ❖ The Petitioner first obtains a temporary order that is effective until the scheduled court hearing. The court then meets with both parties to determine if a permanent OFP should be awarded for up to one year.
- ❖ See Minnesota Statute 518B.01

## DO I QUALIFY FOR AN OFP?

Yes, if:

- ❖ You and the Respondent live or have lived together, OR
- ❖ You have a child in common, OR
- ❖ You are related by blood, OR
- ❖ You have a significant romantic or sexual relationship

AND

- ❖ There has been a recent incident of domestic abuse

## DO I QUALIFY FOR LEGAL ADVOCACY AT THE AURORA CENTER?

Yes, if:

- ❖ You or the Respondent live in Ramsey or Hennepin County, OR The alleged abuse occurred in Ramsey or Hennepin County

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# Harassment Order

## WHAT IS HARASSMENT?

- ❖ Harassment is legally defined as a single incident of physical or sexual assault or repeated, intrusive, or unwanted acts, words, or gestures that have, or are intended to have, a substantial adverse effect on the safety, security, or privacy of another, regardless of the relationship between the perpetrator and the victim/survivor. There must also be an immediate and present danger of harassment.
- ❖ A pattern does not necessarily have to be formed to constitute harassment, as a single incident that contains "more than one act, word, or gesture" can legally constitute harassment.
- ❖ The perpetrator need not intend harassment for his/her actions to meet the legal definition of harassment.
- ❖ Some examples of harassment are: sending threatening letters or emails; receiving repeated phone calls; following you; exposing you to offensive materials; picketing of your home by a group; a pattern by the offender of attending public events after being notified that the offender's presence at the event is harassing to you. Harassment is sometimes called stalking.

## WHAT IS A HARASSMENT RESTRAINING ORDER?

- ❖ A Harassment Restraining Order (HRO) is a court order forbidding the Respondent from harassing and/or making contact with the Petitioner and/or any minor children.
- ❖ A hearing is not required for an HRO, although the Petitioner, Respondent, or the signing judge has the opportunity to request a hearing. If the Petitioner and the signing judge do not request a hearing, the permanent order is in effect after the judge signs it. The respondent has 45 days after being served to request a hearing. If the Respondent requests a hearing, the Court will schedule one. The order is good for up to two years.
- ❖ In a harassment order, you may request: no contact with the Respondent (including via third person, phone, work, email etc.); no harassment; Respondent stay away from your home or workplace; and other specific kinds of relief may also be considered, such as no contact at religious buildings or daycare. Harassment orders *cannot* remove the Respondent from your home if you live together.
- ❖ See Minnesota Statute 609.748. Go to [www.revisor.leg.state.mn.us/slaws/2000/c476.html](http://www.revisor.leg.state.mn.us/slaws/2000/c476.html) for full text.

## DO I QUALIFY FOR A HARASSMENT ORDER?

Yes, if:

- ❖ You are being harassed, AND you have the full name of the person who is harassing you.

## DO I QUALIFY FOR LEGAL ADVOCACY AT THE AURORA CENTER?

Yes, if:

- ❖ You live in Ramsey or Hennepin County

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## Domestic, Dating & Sexual Violence The Civil Court System

### Restraining Orders and Civil Court

- ❖ If a Restraining Order is issued, it does NOT create a criminal record for the perpetrator
- ❖ A criminal record could be generated if the perpetrator violates the Restraining Order
- ❖ Child custody, spousal maintenance, child support, and ordered counseling are only temporary and expire with the Restraining Order
- ❖ It is not necessary to retain a lawyer in order to obtain a restraining order

### Some Goals in Using the Civil Court System

- ❖ Stop the violence or emotional, financial, and physical abuse used to control and coerce victim
- ❖ Protect the abused party, family members, and/or the general public
- ❖ Hold perpetrator accountable for violence
- ❖ Provide restitution to the abused party
- ❖ Convey to the public that domestic, dating, or sexual violence is not "just a private matter"

### Basic Differences Between the Civil and Criminal Court Systems

Civil Court	Criminal Court
One individual or party versus another <i>Example: Mary Hidalgo v. Pat Porter</i>	State is the agent pressing charges <i>Example: State of Minnesota v. Chris Klein</i>
Covers issues/crimes affecting individuals	Covers crimes thought to affect society or the community at large
Lower standards of "proof" needed in court (preponderance of evidence/more likely than not that the event occurred)	Higher standard of "proof" needed in court (beyond a reasonable doubt)
Outcome: fine, restrictions	Outcome: jail, fine, probation, on perpetrator's "criminal record"
Private court proceedings	Public court proceedings
Examples: Divorce, custody issues, filing, and obtaining a restraining order, landlord/tenant disputes	Examples: DWI, traffic violation, murder, theft, domestic assault, criminal sexual conduct, restraining order violations

*Adapted from the Project P.E.A.C.E. web page [www.projectpeace.org/educate.htm](http://www.projectpeace.org/educate.htm)*

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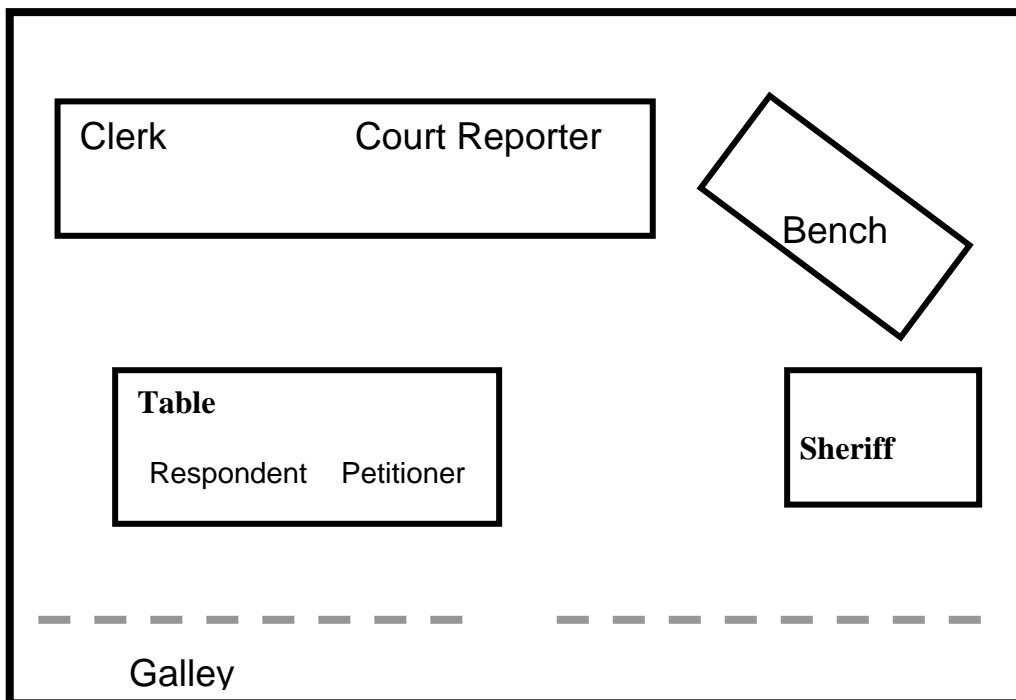




## What to Expect in Civil Court

### Courtroom Set-up:

Each courtroom is set up a little differently and each referee runs his/her courtroom a little differently. This is a basic overview of what the courtroom will most likely look like:



### What Are All the Things in this Picture?

- ❖ Clerk: Assists the referee, has information on the court hearings, will run errands for the judge, usually the one to swear in the witnesses.
- ❖ Court reporter: types or writes down everything that is said "on the record," usually all of the witness testimony and what the lawyers and judges say during the court hearings. The court reporter may ask a witness to spell their names or restate things which the court reporter did not hear.
- ❖ Bench: This is where the judge or referee sits. During court hearings, the judge/referee will sometimes ask lawyers or others to approach the bench. That means the people are to go to the desk where the judge is sitting.

*Continued...*

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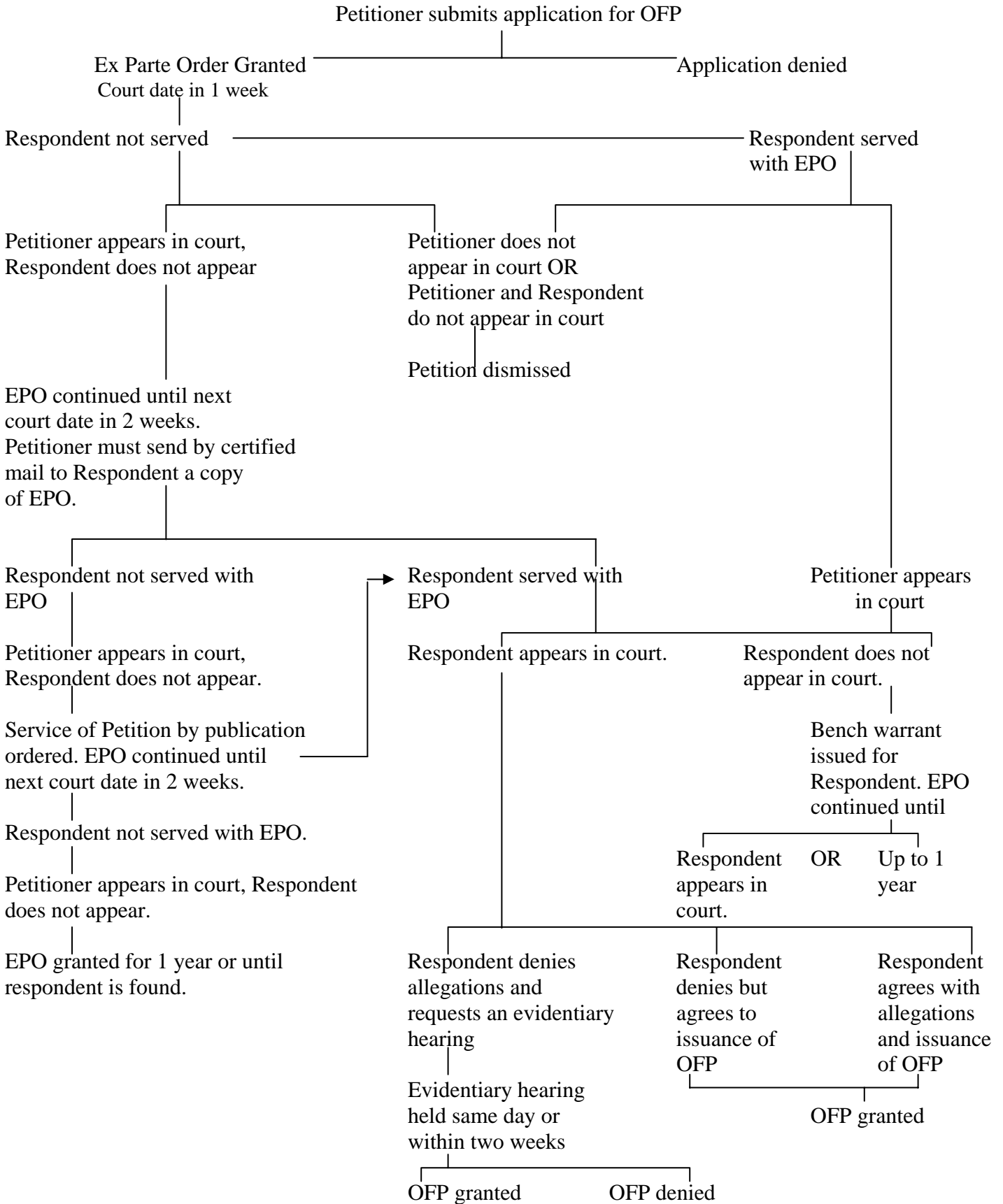
- ❖ Table: Both the Respondent and Petitioner sit at the table once the case is called by the court. The Petitioner sits on the far right and the Respondent sits on the far left. Advocates and lawyers are permitted to sit at the table with the clients.
- ❖ Sheriff: There is usually a sheriff deputy present in the courtroom. They are there for security reasons. They will bring people from jail to the courtroom. The sheriff deputy will also check people in for their court hearings.
- ❖ Galley: There is usually a railing or divider of some type between the front of the courtroom and the area where the general public can sit. The area where the general public sits is called the galley.

## General Courtroom Rules

- ❖ Dress nicely. Usually a nice pair of pants or skirt along with a casual, but nice shirt will do just fine. The general rule is no jeans.
- ❖ When your case is called, walk through the gate and approach your seat. Remain standing. The referee or judge will swear you in. Once this is finished you can take your seat.
- ❖ Call the judge or referee "your honor" or "your honor Judge \_\_\_\_\_".
- ❖ Never interrupt the judge. If something needs to be clarified or challenged, wait until the judge or other person finishes talking. Stop speaking instantly if the judge interrupts you.
- ❖ Be on time for each hearing. The court hearings are often late in starting but the one time you are late, court will start on time.
- ❖ Most courtrooms have signs listing the courtroom rules. For example, no food or drinks, no hats, no gum chewing, no talking. Be sure to turn off any cell phones and/or pagers.
- ❖ Some courtrooms will have metal detectors or will do searches of people coming into hearings. This is usually done when there is a particular safety concern. If there are searches of people, each person coming into the courtroom will be searched as well as any bags or packages which the person carries in.
- ❖ It is difficult to have young children in the courtroom. Some judges will tell you to take the children out of the courtroom if they are talking or running about in the courtroom. Most courthouses have no place for children.

*Adopted from the Project P.E.A.C.E. Web Site at <http://www.projectpeace.org/educate.court.htm>*

## Obtaining an Order for Protection (OFP)





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## Community Resources in Metro Area for Obtaining Restraining Orders

### **Domestic Abuse Service Center**

Restraining Order Services (Hennepin County)  
Hennepin County Government Center  
300 South 6<sup>th</sup> Street  
Minneapolis, MN  
612-348-5073  
\*Walk-in basis

### **Domestic Abuse Intervention Project**

Shelter & Resources  
1509 Marshall Avenue  
St. Paul, MN 55104  
24-Hr Crisis Line: 651-645-2824  
Use relay service  
Office Hours: M – F 9am – 5pm

### **Domestic Abuse/ Harassment Office**

Restraining Order Services (Ramsey County)  
Juvenile Justice & Family Center  
25 West 7<sup>th</sup> Street  
St. Paul, MN 55102  
651-266-5130  
\*Call for an appointment

### **Tubman Family Alliance**

Shelter, Education, and Resources

#### West Metro Office

3111 First Avenue South  
Minneapolis, MN 55408  
24-Hr Crisis Line: 612-825-0000  
Office: 612-825-3333  
TTY: 612-821-4757  
[help@harriettubman.org](mailto:help@harriettubman.org)

#### East Metro Office

P.O. Box 854  
Lake Elmo, MN 55042  
24-Hr Crisis Line: 651-770-0777  
Shelters: 651-653-6305 and 651-768-0216  
TTY: 651-768-0216 and 651-770-8544  
[www.tubmanfamilyalliance.org](http://www.tubmanfamilyalliance.org)

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# Domestic Abuse Hearing

## PRELIMINARY PROCEDURES

- A. An Ex Parte Order (EPO) must be served to the respondent by the sheriff's office. An EPO is considered served if the respondent receives notice of it at least twelve hours before the scheduled court hearing. In emergency situations, namely child abuse, the Ex Parte Order can be waived.
- B. If the Ex Parte Order was served to the respondent, but s/he fails to appear for hearing, bench warrant is issued for his/her arrest.
  - 1. An Ex Parte Order and any additional relief requested remain in full force and effect until respondent's appearance in court.
- C. If you (Petitioner) do not appear at the hearing, the temporary Ex Parte Order is dismissed, and respondent may return to the home and other places, such as work, from which the order excluded him/her.

## AT COURT

- A. Referee (who is like a judge) will ask you if you want to proceed with the OFP. If you have decided not to request the OFP because you do not wish to exclude the respondent from the home, the referee explains an OFP can be issued without such exclusion.
- B. If you decide to proceed with the request for an OFP, the referee makes certain you understand this is a civil, not a criminal, proceeding to determine whether the OFP should be issued. The OFP would be in effect for one year and would prohibit the respondent from inflicting physical abuse on you or causing you to fear such abuse.

*Continued...*

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- C. Respondent is then given three choices by the referee:
1. Admit allegations in petition and agree to the order.
  2. Deny allegations in petition and agree to the order. The court would make no findings that abuse occurred, and the issued order would include denial of allegations.
  3. Deny allegations and request a hearing to be held when there is a break in the calendar, either that same day or no longer than two weeks from that day.

### **HEARING FOR CONTESTED ORDER**

- A. Respondent denies allegations and requests hearing (choice #3 above).
1. Both parties are sworn in and testimony is taken from each and from any witnesses. Testimony can include information not included in the written OFP. Affidavits from witnesses cannot be used as testimony.
  2. Attorneys are not required at domestic abuse hearings, and you cannot be held responsible for attorney fees if the respondent has an attorney.
- B. Court makes findings as to what occurred and whether OFP should be issued.
1. If the petitioner has not established sufficient basis for the order, action is dismissed. This means that you will not be awarded an OFP, and relief that was in the Ex Parte Order is no longer in effect.
  2. If the petitioner has established sufficient basis for the order, findings are written by the court concerning what prompted the order.
    - a. You are granted the OFP, although each request for relief is reviewed and either granted or dismissed.

### **WHAT YOU CAN ASK FOR IN AN ORDER FOR PROTECTION**

- A. Exclusion of respondent from your home.
1. If you have right of occupancy of the home and ask that the respondent not be allowed in your home, the respondent will be excluded from the home.
    - a. Arrangements are made for the respondent to pick up personal belongings. Police can be present for your safety at this exchange.
    - b. If parties disagree on what constitutes personal belongings, this will be litigated in either Family Court or Conciliation Court.
  2. When the respondent is excluded from your home and you move to a new address, you must notify the Domestic Abuse Service Center (Hennepin) or the Domestic Abuse/Harassment Office (Ramsey) of new residence. An amended OFP will be sent to the police department or law enforcement agency where you live.
  3. The respondent is advised that the OFP includes a warning in boldface type that s/he cannot enter your home, even if invited by you.

*Continued...*

- B. Exclusion of respondent from your workplace.
  - 1. If you want the respondent to stay away from your workplace, the OFP must include the name and address of your employer.
  - 2. If you are employed in a public place or at the same place as respondent, the order must include specific place and work conditions under which the respondent may approach the client.
  
- C. Child support, custody, and visitation
  - 1. Legally, "custody" may be called "Decision Making" and "visitation" may be called "Parenting Time."
  - 2. Factors influencing child support.
    - a. If parties are married or have a child for whom paternity has been established, they must complete a financial statement in the OFP so that the court can order child support, custody, and visitation.
    - b. If no paternity is established, there will be no child support ordered, and the mother is automatically granted custody of the child(ren).
  - 3. Child custody disputes.
    - a. In custody disputes, custody is usually maintained as it was at the time OFP was requested.
    - b. Hennepin County Department of Court Services or Ramsey County Court Services and Domestic Relations will then do a custody evaluation, with report to be returned in approximately three months.
  - 4. Visitation restrictions.
    - a. If parties have minor children, the court will go by your wishes regarding the respondent's visitation with child(ren) and telephone contact with you to arrange visitation.
    - b. The respondent is advised that any threat to you by telephone is violation of the OFP.
    - c. If there is not paternity established, but parties have lived together with a child for two years, Hennepin County Department of Court Services or Ramsey County Court Services and Domestic Relations will do a visitation evaluation.
  
- D. Restitution request (money you can ask for to cover losses associated with the abuse)
  - 1. You must provide proof of the loss you are asking restitution for.
  - 2. If parties cannot agree on restitution requested as a result of the respondent's abuse, litigation may be necessary later, and the respondent is advised of right to later jury trial.
  - 3. If parties agree on amount of restitution, you are bound by that amount and cannot later request additional damages.
  
- E. Spousal maintenance (commonly known as "alimony")
  - 1. This can only be requested if you were or are currently married to the respondent.
  
- F. Counseling for the petitioner

*Continued...*

## **PROCEDURES FOLLOWING HEARING**

- A. When the order is granted, the court orders parties to wait for copies of the order. The court may issue bench warrant for arrest of either party failing to wait.
- B. Deputies initial or insert badge numbers on copies of the order when they serve parties, so that in case of violation of the order, city or county attorney may call appropriate deputy to decide if respondent was aware of restrictions in the order.
- C. One copy of the order goes to the police department where you reside. The original copy is placed in current file and you are advised to always keep a copy of the order available to show police in case of violation of the order by the respondent.

## **AMENDMENT TO ORDER FOR PROTECTION**

- A. After OFP has been issued, the respondent or the petitioner may seek an amendment to the order.
- B. You may seek an amendment if you wish the order to include either additional or fewer restrictions.
- C. Forms for amendments are available at the Hennepin County Domestic Abuse Service Center or the Ramsey County Domestic Abuse and Harassment Office.
- D. Hearings on requests for amendments are conducted before a referee who heard the original request for an OFP.
- E. The OFP may still hold even if you later recant, or take back, your allegations in the OFP or testimony.

## **VIOLATIONS OF ORDER FOR PROTECTION**

- A. If respondent comes on your property after being excluded or makes unwanted telephone calls to you, you should call police and, if situation warrants, contact city attorney.
- B. If respondent physically harms or uses weapons against you, you should call police and, if situation warrants, contact county attorney.
- C. If respondent fails to make support payments or fails to return a child after visitation, s/he may be charged with contempt.
- D. Convictions for violations:
  - 1. Violation of an OFP is a misdemeanor, and law requires that the respondent be sentenced to three days incarceration and ordered to participate in counseling or other court-selected programs. Maximum sentence for violation is 90 days incarceration and \$700 fine.
  - 2. Two convictions for violations of OFP in two years is a gross misdemeanor; law requires that the respondent be sentenced to minimum of 10 days incarceration and ordered to participate in counseling or other court-selected programs. Maximum sentence for gross misdemeanor is 365 days incarceration and \$3,000 fine.

*Continued...*

## **EXTENSION OF ORDER FOR PROTECTION**

- A. An OFP is in effect for one year. If you wish to extend the order for an additional year, forms for requesting extensions are available at Domestic Abuse Service Center in Hennepin County or the Domestic Abuse and Harassment Office in Ramsey County.
- B. The client need not prove new acts of abuse to gain extension, but must allege basis for extension, such as a threatening statement from respondent. Renewal can be based on a fear of violence or injury from verbal threats, for example, and does not necessarily need to be based on physical abuse.

## **WHO TO CALL REGARDING ORDERS FOR PROTECTION OR HARASSMENT RESTRAINING ORDERS**

If you would like assistance to write and file an Order for Protection or Harassment Restraining Order in Hennepin or Ramsey County:

- ❖ Call The Aurora Center for Advocacy and Education at 612-626-2929 (business line) to make an appointment with a legal advocate.
- ❖ An advocate will assist you through the OFP or HRO process, if you wish.

Additional resources for Hennepin and Ramsey Counties are:

- ❖ Domestic Abuse Service Center (Hennepin County): 612-348-5073
- ❖ Domestic Abuse & Harassment Office (Ramsey County): 651-266-5130

If you live in another county and would like an Order for Protection or a Harassment Restraining Order:

- ❖ Call The Aurora Center for Advocacy and Education at 612-626-2929 (business line) or 612-626-9111 (24-hour crisis line), to get information and referrals to a legal advocacy program in your area.





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# Service Procedure for Order for Protection

## *Respondent has not been Served for Initial Court Date*

1. The case must be continued for a period of two weeks from the initial court date in order that the sheriff's department may obtain service on the respondent, and, if necessary, the procedure can be started to obtain an Order for Protection by Publication if the respondent cannot be personally served.
2. Copies of your papers will be taken to the Sheriff's Civil Division for another attempt at service. If you have any new information about where the respondent may be located, including any hangouts, parents, or friends, you should call the Sheriff's Civil Division at 612-348-3800 in Hennepin County or the Ramsey County Sheriff's Office at 651-266-9330.
3. A new hearing date is placed on all the copies of the papers, which is two weeks in the future. It will be necessary for you to appear in court at the new date and time.
4. On the initial court date, you must make a copy of all original papers from your copy with the new date and time of the hearing. This copy must be mailed by certified mail to the respondent today at his or her last known address, even if it is your address. The post office will give you a receipt for certified mail, which will be postmarked at the post office with the date on which you send it out. You must keep the receipt and bring it with you to the next court hearing. Failure to bring the receipt with today's postmark to the next hearing will result in an additional court hearing for you. You may also send copies of the order to the respondent in care of a parent, friend, or relative.
5. At the next hearing, which is two weeks from the initial court date, you must appear bringing with you the postmarked receipt from the post office. At that hearing, if the sheriff was unable to serve the respondent and if the respondent is not present in court, the clerk will direct you to fill out and sign under oath an affidavit and request for service of the petition by publication. After you sign the affidavit, there will be a brief court hearing and the referee will issue an order which directs the service of the petition upon the respondent by publication.
6. At that time, the domestic abuse hearing will be continued for another two weeks in order that the publication can be made as required by state law. The Ex Parte Order will remain in effect until the continued hearing.
7. You will be required to appear at the continued hearing at the date and time on the order. If the respondent does not appear, the Order for Protection will be issued at the continued hearing and is valid for one year.
8. It is always preferable for the respondent to be served personally and required to appear in court. However, if it is necessary for you to proceed to obtain an Order for Protection by Publication, the final court hearing will be four weeks after the initial hearing date.

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## Reasons Why Someone May Not Utilize the Legal System

- ❖ Fear for safety (e.g. threats or retaliation).
- ❖ Feeling guilty about partner being incarcerated for assaulting her/him.
- ❖ *Shame* → *ashamed to discuss the abuse with strangers.*  
→ *ashamed to appear as a witness.*
- ❖ Intimidated by the legal system.
- ❖ Lack of awareness and information regarding the legal system.
- ❖ Frustrated with the legal system because of previous experience.
- ❖ Fear of losing children.
- ❖ Fear of Child Protection involvement in the family.
- ❖ Fear of testifying.
- ❖ Victim/survivor believes that s/he will prevent further abuse by not assisting the courts in prosecution.
- ❖ Fears that the assailant will bring legal charges against the victim/survivor.
- ❖ Shelter may not be immediately accessible to the victim/survivor.
- ❖ Minimizes the seriousness of the assault against the victim/survivor, particularly if there have been prior assaults of greater injury.
- ❖ Victim/survivor may utilize the medical or counseling system rather than the legal system to assist her/him in recovering from the physical and emotional trauma of assault.
- ❖ Victim/survivor feels responsible for her/his assailant's decision to assault her/him.
- ❖ Injury may prevent the victim/survivor from seeking help of any kind.
- ❖ Victim/survivor may choose to seek revenge against her/his assailant.
- ❖ If the victim/survivor has sought help previously, and this has not prevented further abuse, s/he loses faith in the legal system.
- ❖ Victim/survivor may be apprehensive due to racism, sexism, homophobia, transphobia, classism, and/or ageism that s/he has encountered or fears encountering within the legal system.

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## EXAMPLE RESTRAINING ORDER

There are two types of restraining orders in Minnesota, an Order for Protection (OFP) and a Harassment Restraining Order (HRO). The OFP is the more extensive of the two, which is why it is used as an example here.

The following pages are an example of an Order for Protection (OFP) for Hennepin County. The OFP is quite extensive and is able to offer many types of relief (i.e. child support, child custody, spousal maintenance, restitution, and court ordered counseling for the Respondent). An Order for Protection is specifically for cases of domestic and dating violence where there is a history of physical harm and/or fear of imminent physical harm in addition to some sort of established relationship between the Petitioner and Respondent including current or former spouses or partners, current or former boyfriend/girlfriend, blood related, live/d together, and/or have a child in common. Ramsey County also has a form for an OFP, though it looks slightly different. However, both Ramsey and Hennepin counties offer the same type of relief.

The second type of restraining order is a Harassment Restraining Order. A Harassment Restraining Order does not offer the same extensive relief. The Harassment Restraining Order is aimed at stopping repeated, unwanted, intrusive and harassing acts. A Harassment Restraining Order is available to anyone including neighbors, friends, coworkers, and strangers. Once again, Ramsey County also has a form for harassment orders.

Generally, Orders for Protection and Harassment Restraining Orders are enforceable state-wide, regardless of where the orders are filed. Additionally, through the "Full Faith and Credit" law, restraining orders are enforceable throughout the United States and its territories. In other words, if a person were to obtain a restraining order in Minnesota and then move to another state, the new state of residence is obligated to enforce the restraining order as the issuing state would enforce it. However, if the Respondent were to violate the conditions of the restraining order, he/she would be charged under the criminal statute of the state where the Petitioner resides.

If you feel you are in need of a restraining order or have questions, The Aurora Center can assist you. The Aurora Center writes restraining orders on-site and provides legal advocacy throughout the entire restraining order process. Please call (612)-626-9111 to make an appointment with a legal advocate.

**HENNEPIN COUNTY - DOMESTIC ABUSE/RESTRAINING ORDER**

**TO: Sheriff's Office: (FOR SHERIFF'S USE ONLY)**

**DATE:** \_\_\_\_\_ **COURT FILE #** \_\_\_\_\_

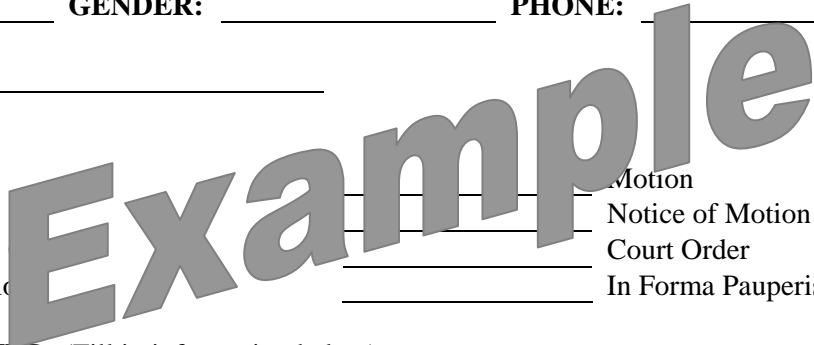
**PETITIONER NAME (must include middle name):**

**RACE:** \_\_\_\_\_ **GENDER:** \_\_\_\_\_ **PHONE:** \_\_\_\_\_

**RE:** \_\_\_\_\_

**COURT ACTION:**

<input checked="" type="checkbox"/>	Petition	<input type="checkbox"/>	Motion
<input checked="" type="checkbox"/>	Affidavit	<input type="checkbox"/>	Notice of Motion and Motion
<input type="checkbox"/>	Order to Show	<input type="checkbox"/>	Court Order
<input type="checkbox"/>	Notice of Motio	<input type="checkbox"/>	In Forma Pauperis



**INSTRUCTIONS FOR PETITIONER:** (Fill in information below)

The Sheriff will serve the Respondent with the petition and order, but you must first tell the Court where that person is.

**RESPONDENT INFORMATION:** (This description will help the Sheriff locate the Respondent. Please include **COMPLETE** street addresses.)

**NAME (must include middle name):** \_\_\_\_\_

**ADDRESS**

: \_\_\_\_\_

**PHONE:** \_\_\_\_\_

**EMPLOYER'S NAME:** \_\_\_\_\_

**ADDRESS**

: \_\_\_\_\_

**PHONE:** \_\_\_\_\_ **HOURS:** \_\_\_\_\_

**PHYSICAL IDENTIFICATION:**

**RACE:** \_\_\_\_\_ **GENDER:** \_\_\_\_\_

**HAIR:** \_\_\_\_\_

**HEIGHT:** \_\_\_\_\_ **WEIGHT:** \_\_\_\_\_

**PICTURE ATTACHED:** \_\_\_\_\_

**BIRTHDATE:** \_\_\_\_\_

**EYES:** \_\_\_\_\_

**BEARD:** \_\_\_\_\_ **MUSTACHE:** \_\_\_\_\_

**AUTOMOBILE IDENTIFICATION:**

**MAKE:** \_\_\_\_\_ **YEAR:** \_\_\_\_\_ **COLOR:** \_\_\_\_\_ **LICENSE #:** \_\_\_\_\_

**BRIEF PROFILE OF RESPONDENT:**

**ALCOHOLIC**

**DRUG ABUSER:** \_\_\_\_\_

: \_\_\_\_\_

**MAY CARRY A WEAPON:** \_\_\_\_\_

**PRIOR ARREST RECORD:** \_\_\_\_\_

**IN CUSTODY:** \_\_\_\_\_

**VISCIOUS**

**ANIMALS:** \_\_\_\_\_

**CHILD PICK-UP:** \_\_\_\_\_

**OTHER INFORMATION:** \_\_\_\_\_

**CHILDREN'S INFORMATION (only include children who live with the Respondent):**

<b>NAME (must include middle name)</b>	<b>DOB</b>	<b>RACE</b>	<b>GENDER</b>
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_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

STATE OF MINNESOTA

COUNTY OF HENNEPIN

DISTRICT COURT  
FOURTH JUDICIAL DISTRICT  
FAMILY COURT DIVISION

In Re the Matter of:

Example

**PETITION FOR ORDER FOR  
PROTECTION AND AFFIDAVIT**

\_\_\_\_\_  
Petitioner,  
and

DA \_\_\_\_\_

\_\_\_\_\_  
Respondent.

The undersigned Petitioner, being sworn on oath states that:

1. My name is \_\_\_\_\_

My address is \_\_\_\_\_

and my date of birth is \_\_\_\_\_ Race: \_\_\_\_\_ Gender: \_\_\_\_\_

2. Respondent's name is \_\_\_\_\_

Respondent's address is \_\_\_\_\_

Respondent's date of birth: \_\_\_\_\_ Race: \_\_\_\_\_ Gender: \_\_\_\_\_

3. I am the Petitioner in this action. This affidavit is given in support of my petition for an Order for Protection. (M.S. 518B.01).

4. My relationship with the Respondent is as follows:

\_\_\_\_\_ Spouse (married \_\_\_\_\_ )

\_\_\_\_\_ Former spouse \_\_\_\_\_, Court File # \_\_\_\_\_ )  
(divorced \_\_\_\_\_)

\_\_\_\_\_ Parent and Child

\_\_\_\_\_ Related by blood (how: \_\_\_\_\_ )

\_\_\_\_\_ Lived together (from \_\_\_\_\_ to \_\_\_\_\_ )

\_\_\_\_\_ Have child/ren in common

\_\_\_\_\_ Have an unborn child in common

\_\_\_\_\_ Have a significant romantic or sexual relationship

\_\_\_\_\_ Additional Information  
(about type of relationship): \_\_\_\_\_

5. I am involved in the following court actions:

\_\_\_\_\_ Marriage dissolution - where \_\_\_\_\_

\_\_\_\_\_ Custody - where \_\_\_\_\_

\_\_\_\_\_ Paternity action - where \_\_\_\_\_

6. The following minor children were born to or legally adopted by respondent and me:

Name \_\_\_\_\_ Birth Date \_\_\_\_\_ Lives with \_\_\_\_\_  
Race \_\_\_\_\_ Gender \_\_\_\_\_

If not married, is paternity adjudicated Yes  No  File No. \_\_\_\_\_

Name \_\_\_\_\_ Birth Date \_\_\_\_\_ Lives with \_\_\_\_\_  
Race \_\_\_\_\_ Gender \_\_\_\_\_

If not married, is paternity adjudicated Yes  No  File No. \_\_\_\_\_

Name \_\_\_\_\_ Birth Date \_\_\_\_\_ Lives with \_\_\_\_\_  
Race \_\_\_\_\_ Gender \_\_\_\_\_

If not married, is paternity adjudicated Yes  No  File No. \_\_\_\_\_

Name \_\_\_\_\_ Birth Date \_\_\_\_\_ Lives with \_\_\_\_\_  
Race \_\_\_\_\_ Gender \_\_\_\_\_

If not married, is paternity adjudicated Yes  No  File No. \_\_\_\_\_

7. The following minor children also live with me:

**Name** **DOB** **Relationship** **Race** **Gender**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Example

8. It is in the child/ren's best interest that the following child/ren be in my custody (name child/ren, give reasons for custody. If any abuse alleged, give dates and describe):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

9. Respondent has inflicted or threatened physical harm upon me and/or upon the minor child/ren.

10. I fear imminent and present danger of further acts of domestic abuse by the Respondent because:



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\_\_\_\_\_ Any additional information: \_\_\_\_\_

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11. An emergency exists and the five-day notice requirement for hearing should be waived because I am in fear of imminent and present danger of further acts of domestic abuse by the Respondent based on the incidents described above.

12. Other Court involvement between Petitioner and Respondent:

\_\_\_\_\_ Domestic assault charges pending: When: \_\_\_\_\_ Where: \_\_\_\_\_

\_\_\_\_\_ Prior domestic assault charges: When: \_\_\_\_\_ Where: \_\_\_\_\_

\_\_\_\_\_ Prior Order for Protection:

Dated: \_\_\_\_\_ File # \_\_\_\_\_

Dated: \_\_\_\_\_ File # \_\_\_\_\_

Dated: \_\_\_\_\_ File # \_\_\_\_\_

\_\_\_\_\_ Prior request for Ex Parte Order for Protection made to \_\_\_\_\_

Judge/judicial officer was granted/denied on \_\_\_\_\_

New facts in this application are: \_\_\_\_\_

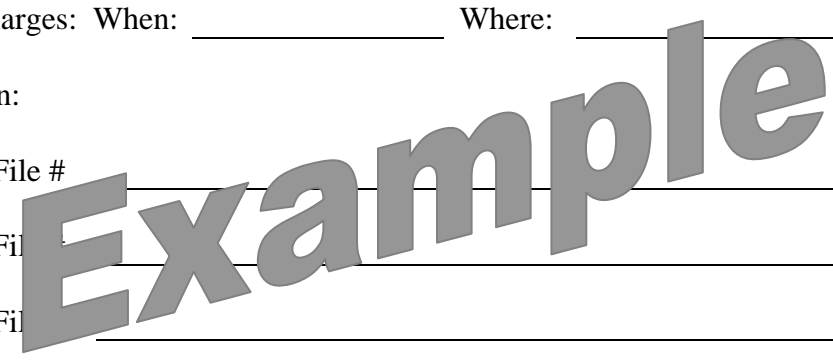
\_\_\_\_\_ Child Protection involvement:

Worker's name \_\_\_\_\_

File # if known \_\_\_\_\_

\_\_\_\_\_ Juvenile Court is/is not involved, if known

File # if known \_\_\_\_\_



\_\_\_\_\_ None

\_\_\_\_\_ Other \_\_\_\_\_

13. a) I am seeking child support                      YES                       NO
- b) I am seeking spousal maintenance                      YES                       NO
- c) I am seeking continuation of health and/or dental insurance                      YES                       NO

**Complete d-g below only if Petitioner is requesting child support and/or spousal maintenance.**

d) My gross income is \$ \_\_\_\_\_ per month. My net income is \$ \_\_\_\_\_ per month.

Source: \_\_\_\_\_

e) My monthly expenses are \$ \_\_\_\_\_ including \$ \_\_\_\_\_ for the minor children.

f) Respondent's gross income is \$ \_\_\_\_\_ per month. Respondent's net income is \$ \_\_\_\_\_ per month.

Source: \_\_\_\_\_

Respondent's social security number is: \_\_\_\_\_

g) Respondent's employer's address is: \_\_\_\_\_

14. a) I am seeking restitution                                      YES                                       NO

b) I am seeking restitution of \$ \_\_\_\_\_ for out-of-pocket expenses I incurred to date as a direct result of the Respondent's abuse. **PROOF OF LOSS MUST BE PROVIDED AT THE COURT HEARING.**

15. Based on the foregoing Affidavit, I request that an Ex Parte Temporary Order for Protection be issued granting the following relief under M.S. 518B.01 (Subd. 7):

a) Restraining and enjoining Respondent from causing me or the above named child/ren any physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault because I fear imminent and present danger of further acts of domestic abuse by the Respondent.

b) Excluding the Respondent from the following dwelling at \_\_\_\_\_

and all future residences.

- |      |                                       |     |                          |    |                          |
|------|---------------------------------------|-----|--------------------------|----|--------------------------|
| i.   | Are you owner of the residence        | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| ii.  | Is Respondent owner of the residence  | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| iii. | Is Respondent lessee of the residence | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |
| iv.  | Are you lessee of the residence       | Yes | <input type="checkbox"/> | No | <input type="checkbox"/> |

c) Providing such other and further relief as is deemed necessary for the protection of the petitioner:

**No contact in person, by phone, by mail, by third party, or by any other means.**

Granting Petitioner the temporary care, custody, and control of the above-named child/ren, subject to any temporary visitation that the Court may grant.

Exclude and no telephone calls at Petitioner's place of employment at:

\_\_\_\_\_

Exclude from Child/ren's school at:

\_\_\_\_\_

Exclude from daycare at:

\_\_\_\_\_

Other:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Example

16. Based on the foregoing Affidavit, I request that an Order for Protection be issued granting the following relief under Minnesota Statutes Section 518B.01 (Subd. 6) (to be considered at the full hearing):

a) Restraining and enjoining Respondent from causing me or the above named child/ren any physical harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault.

b) Excluding the Respondent from the following dwelling at:

\_\_\_\_\_ and all future residences of the Petitioner.

c) Granting me the temporary care, custody and control of the above named child/ren, subject to any temporary visitation that the Court may grant.

d) Directing Respondent to pay a reasonable sum of moneys as and for the temporary support of the minor child/ren of the parties.

e) Directing the Respondent to pay a reasonable sum of moneys for temporary maintenance of the Petitioner.

f) Directing the Respondent to continue all currently available insurance coverage for the Petitioner and/or the above named child/ren without change in coverage or beneficiary designation.

g) Directing the Respondent to pay restitution to the Petitioner.

- h) Directing the Respondent to participate in treatment, counseling services, or a domestic abuse program.
- i) Directing the Hennepin County Department of Court Services to provide appropriate counseling, treatment, or other social services to the parties, if they are married or if there are minor child/ren.
- j) Awarding Petitioner temporary use and possession of personal property of the parties.
- k) Restraining Respondent from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life and requiring Respondent to account to the Court for all such transfers, encumbrances, dispositions and expenditures made after the Order is served or communicated to the Respondent in open Court.
- l) Providing such other and further relief as is deemed necessary for the protection of the **No contact in person, by phone, by mail, by third party, or by any other means.**
- Granting Petitioner the temporary care, custody, and control of the above-named child/ren, subject to any temporary visitation that the Court may grant.
- Exclude and no telephone calls at Petitioner's place of employment :
- Exclude from Child/ren's school at:
- Exclude from day
- Other:
- m) Directing that the \_\_\_\_\_ police department be empowered and authorized to enforce the provisions of the Order for Protection under the Domestic Abuse Act, M.S. 518B.02 (Subd. 9).
- n) Directing that the Hennepin County Sheriff shall assist the Petitioner in the execution and/or service of this Order. (This means that if necessary, the sheriff shall use the full force of the county to place the Petitioner in possession of the designated residence and remove Respondent as provided under the Domestic Abuse Act.)

Example

17. I further request such other relief at the time of the full hearing as the Court finds necessary for the protection of a family or household member, including Orders or directives to law enforcement agencies.

**I ACKNOWLEDGE THAT I HAVE READ THIS PETITION FOR ORDER FOR PROTECTION AND AFFIDAVIT, AND IT IS TRUE AND CORRECT.**

Subscribed and sworn/affirmed to

before me this \_\_\_\_\_ day of

\_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Signature of Petitioner

\_\_\_\_\_  
Deputy Clerk of Court or Notary

**Example**

**NOTICE TO PETITIONER:**

Be prepared for a hearing on the scheduled date. You may be asked to testify at that time. Depending on the Court's calendar, the hearing may be rescheduled. You should bring any available documentation such as police reports, hospital and doctor reports, pictures, witnesses, or other items.

In Re the Matter of:

**ORDER FOR DOMESTIC ABUSE HEARING  
AND EX PARTE ORDER FOR PROTECTION**

\_\_\_\_\_  
Petitioner,  
and

**DA** \_\_\_\_\_

\_\_\_\_\_  
Respondent.

Upon the Affidavit and Petition for an Order for Protection: IT IS HEREBY ORDERED that the Respondent personally appear and show cause, before the above-named Court, at the Family Justice Center, located at 110 So. 4<sup>th</sup> Street, Minneapolis, MN 55401-2279, on \_\_\_\_\_

20 \_\_\_\_ at \_\_\_\_\_ (.m.), or as soon thereafter as the same can be heard, why the relief sought by the Petitioner in the Petition for Order for Protection should not be granted. Petitioner shall report to room 157 at the Family Justice Center. Respondent shall report to room 160 at the Family Justice Center. **Your case will be called from this waiting room.**

  X   1. Until the date of the hearing the Respondent is hereby restrained and enjoined from committing any act of physical harm, bodily harm, bodily injury, assault or the infliction of fear of imminent physical harm, bodily injury or assault against the Petitioner or any minor child/ren living with the Petitioner.

  X   2. Until said hearing, the Respondent is excluded from the family home at:

\_\_\_\_\_  
and all future residences of the Petitioner, because the Court finds that to do otherwise would result in immediate danger of physical harm to Petitioner or the minor children in his/her custody, EXCEPT to retrieve personal effects under a peace officer’s supervision. Thereafter the Respondent shall remain away.

  X   3. Under the Domestic Abuse Act, M.S. 518B.01 (Subd. 9), the County Sheriff and \_\_\_\_\_ Police Department are specifically empowered and authorized to enforce this Order, using the full force of the County, if necessary. This Order shall be enforced by any other law enforcement agency within the State of Minnesota.

  X   4. The appropriate law enforcement agency shall assist the Petitioner in the execution and/or service of this order using the full force of the County.

FAILURE TO APPEAR AT THE SCHEDULED HEARING MAY RESULT IN A BENCH WARRANT BEING ISSUED FOR RESPONDENT’S APPEARANCE.

THIS EX PARTE ORDER IS EFFECTIVE UNTIL THE HEARING SCHEDULED ABOVE, AND MAY BE EXTENDED BY THE COURT IF RESPONDENT FAILS TO APPEAR.

FAILURE OF PETITIONER TO APPEAR WITHOUT GOOD CAUSE SHOWN WILL BE GROUNDS FOR DISMISSAL OF THIS ORDER AND OF THE ENTIRE DOMESTIC ABUSE ACTION.

  X   5. An emergency exists and the five-day notice requirement is hereby waived.

X 6. The Clerk of Court and the Sheriff shall perform their duties without requiring the Petitioner to pay filing fees, service fees and costs.

X 7. IT IS FURTHER ORDERED that the following additional relief is granted.  
[X] **No contact in person, by phone, by mail, by third party, or by any other means.**

[ ] Granting Petitioner the temporary care, custody, and control of the above-named child/ren, subject to any temporary visitation that the Court may grant.

[ ] Exclude and no telephone calls at Petitioner's place of employment at:

\_\_\_\_\_

[ ] Exclude from Child/ren's school at:

\_\_\_\_\_

[ ] Exclude from daycare at:

\_\_\_\_\_

[ ] Other:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**NOTICE TO RESPONDENT:**

**A police officer must arrest you and take you to jail if the police officer believes you have violated this order and must hold you in jail for at least 36 hours unless you are released by a judge.**

**Violation of this order may be treated as a misdemeanor, gross misdemeanor, or felony. A misdemeanor violation may result in a sentence of up to 90 days in jail and/or a fine of up to \$700.00. Some repeat violations are gross misdemeanors which may result in a sentence of up to one year in jail and/or a fine of up to \$3,000.00. Other violations are felonies and may result in a sentence of imprisonment for up to ten years and/or a fine of up to \$20,000.00.**

**The Violence Against Women Act (18 U.S.C. §2265) makes this Order enforceable in all 50 states, Washington D.C., Tribal lands, and U.S. territories. A violation of this Order may result in federal charges and punishment.**

**You must comply with the Violent Crime Control and Law Enforcement Act of 1994, 18 U.S.C. §922(g)(8), concerning the shipping, transporting, possession, or receiving of firearms and ammunition.**

Be prepared for a hearing on the scheduled date. You may be asked to testify at that time. Depending on the Court's calendar, the hearing may be rescheduled. You should bring any available documents, such as police reports, hospital and doctor records, pictures, witnesses, or other items.

Dated \_\_\_\_\_ 20 \_\_\_\_\_

\_\_\_\_\_

JUDGE