

# How to Obtain an Order of Protection

You are about to ask for a Temporary Order of Protection as a victim of abuse. This sheet has information to guide you through the legal process and answer some of the questions you may have.

You are the PETITIONER. The Petitioner is the person alleging abuse and asking for protection. The RESPONDENT is the person you are asking the court to protect you from. A Temporary Order of Protection is an order, signed by a judge, which restricts or prohibits the Respondent from contacting you. Generally, a Temporary Order of Protection is good for 20 days.

If you are a minor, your parent, guardian, or other representative may file a petition for a Temporary Order of Protection on your behalf against the Respondent.

You have the right to appear in court on your own to request a Temporary Order of Protection. However, the following resources are available in your community to help you through this process:

CNA DA: 406-951-0475.

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When signed by a Judge, a Temporary Order of Protection is valid immediately. After the judge signs the Order, these are the next steps:

- Your Petition and a copy of the Order must be given to law enforcement for service upon the Respondent.
- There must be a hearing within 20 days. If law enforcement cannot find the Respondent within 20 days, you will need to ask the court to set a new hearing date.
- At the hearing you must be prepared to explain to the court why you are asking for an Order of Protection, which includes bringing witnesses to the hearing who have knowledge about the facts in your Petition.

Stay in contact with the Clerk of Court for information about your case. The Clerk's number is: 406-775-8754.

You should keep copies of your Order with you at all times. It is a good idea to always carry one in your purse or wallet, as well as having a copy at work and at your children's schools.

Name  
Address  
City, State, Zip  
Telephone No.

IN THE \_\_\_\_\_ COURT

STATE OF MONTANA

COUNTY OF \_\_\_\_\_

|             |   |                                |
|-------------|---|--------------------------------|
| _____       | ) | No. _____                      |
| Petitioner, | ) |                                |
| v.          | ) | <b>SWORN PETITION FOR</b>      |
| _____       | ) | <b>TEMPORARY</b>               |
| Respondent. | ) | <b>ORDER OF PROTECTION</b>     |
|             | ) | <b>AND REQUEST FOR HEARING</b> |

The law requires that Respondent be given a copy of this completed form and all attachments.

1. **Request for Temporary Order of Protection.** Under oath and as provided by Mont. Code Ann. § 40-15-201, I request that the Court issue a Temporary Order of Protection against Respondent. I believe I am in danger of harm if the court does not issue a Temporary Order of Protection immediately.

2. **Protected Person/s.** I am seeking an Order of Protection for *(check all that apply)*:

- ☐ Myself  
☐ The following minor child/ren:

| Child/ren | Age | How child is related to:<br>You      Respondent |  | Who does child live with? |
|-----------|-----|-------------------------------------------------|--|---------------------------|
|           |     |                                                 |  |                           |
|           |     |                                                 |  |                           |
|           |     |                                                 |  |                           |
|           |     |                                                 |  |                           |

☐ Other people you would like to be protected (*first and last names and relationship to both you and Respondent*): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. **Residence.** I live or am staying in the City of \_\_\_\_\_,  
County of \_\_\_\_\_, State of \_\_\_\_\_.  
The Respondent lives in the City of \_\_\_\_\_,  
County of \_\_\_\_\_, State of \_\_\_\_\_.  
The abuse happened in the City of \_\_\_\_\_,  
County of \_\_\_\_\_, State of \_\_\_\_\_.

(*Check all that apply*).

- ☐ The Respondent does not live with me.  
☐ I live with the Respondent at \_\_\_\_\_  
☐ I have left a residence where I lived with the Respondent. I want to return:  
☐ to live at that residence  
☐ to get personal belongings  
☐ other (*describe*): \_\_\_\_\_  
☐ A business is run from the home.  
Type of business (*describe*): \_\_\_\_\_  
The business is run by: ☐ me ☐ Respondent ☐ both me and Respondent

4. **Relationship.** (*Please check all that apply to the relationship between the Respondent (the person you want restrained) and you or the person(s) for whom you are seeking protection*)

- ☐ I (or the person I want protected) have/has a relationship with Respondent as follows:  
☐ Married  
☐ Were married, but are now separated  
☐ Divorced  
☐ Are currently dating or having an ongoing intimate relationship  
☐ Live together  
☐ Lived together in the past  
☐ Have a child and/or children together  
☐ Is a family member or a former family member of Respondent  
☐ Dated or had an ongoing intimate relationship in the past

If a dating relationship please describe:

Nature of relationship \_\_\_\_\_

Length of time of the dating relationship \_\_\_\_\_

How often saw each other \_\_\_\_\_

Time since relationship ended \_\_\_\_\_

☐ Victim of Sexual Assault/ Stalking/ Other: *(describe how you know Respondent)*

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

☐ I am the parent, guardian or other person supervising the welfare of a child less than 16 years of age and request that Respondent, who is a person over 18 years of age and who has no legal right of supervision or control over the child, to stop contacting the child because I believe that the contact is not in the child's best interests as set forth in MCA § 45-5-622 (4).

**5. Information about the violence.** Please explain what the Respondent did to you (and/or the person you want protected). Be specific. Write down places and dates as well as you can remember. It does not matter when the abuse happened or whether you reported it to the police. But you must tell the judge why you are afraid now.

**A. RECENT ABUSE**

Date of the most recent abuse: \_\_\_\_\_

Who was there? \_\_\_\_\_

Where did it take place? \_\_\_\_\_

What did the Respondent do or say that made you (and/or the person you want protected) afraid? \_\_\_\_\_

Did the Respondent use or threaten to use a gun or other weapon? If yes, list how: \_\_\_\_\_

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

Describe any injuries: \_\_\_\_\_

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

Did the police come? ☐ Yes ☐ No

**B. PAST ABUSE**

Describe any past abuse. Explain what happened in past situations. Be sure to explain when the abuse occurred, where it happened, and who was there. Explain why you (and/or the person you want protected) are afraid now. \_\_\_\_\_

*[The page contains faint horizontal lines, suggesting it was part of a lined notebook or document.]*

☐ Check here if you need more space to write. Attach a sheet of 8 ½ x 11 paper and write: "Explanation of What Happened" at the top. Do **NOT** use the back of this form.

**6. Firearms** *(Check all that apply)*

To the best of your knowledge, does Respondent currently possess firearms?

☐ No ☐ Yes

Where are the firearms located? \_\_\_\_\_  
\_\_\_\_\_

**7. Other Court Cases** *(Check all that apply)*

☐ A divorce, legal separation or custody case between me (and/or the person I want protected) and Respondent has been filed in \_\_\_\_\_ County, State of \_\_\_\_\_

Is the family law case listed above still pending? ☐ Yes ☐ No

Did the Court issue a parenting plan? ☐ Yes ☐ No

☐ A criminal charge of \_\_\_\_\_ was filed against me or Respondent in \_\_\_\_\_ Court in \_\_\_\_\_ County, State of \_\_\_\_\_

☐ List any other cases that you (and/or the person you want protected) or Respondent are or have been involved in: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**I ask the Court to Order the Following:**

1. ☐ Respondent shall not commit or threaten to commit acts of violence against me (and/or the person I want protected) and the following people including family members: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

2. ☐ Respondent shall not harass, annoy, disturb the peace of, telephone, email, contact, or otherwise communicate, directly or indirectly, with me (or the person I want protected), and the following family members, other victims of the abuse, or witnesses to the abuse: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3. ☐ Respondent shall not take the following child/ren out of this County or State: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4. ☐ (List the distance, up to 1500 feet, that you want Respondent to stay away from you and/or the person you want protected and the places you check below).

Respondent shall stay at least \_\_\_\_\_ feet from:

☐ Me (Petitioner)

☐ Minor child/ren \_\_\_\_\_

☐ Other people: \_\_\_\_\_

☐ My home (if you want the location of your home to be secret, do not list)

☐ My job or workplace: \_\_\_\_\_

☐ My vehicle: \_\_\_\_\_

☐ The child/ren's school and/or child care: \_\_\_\_\_

☐ Other places (describe): \_\_\_\_\_

5. ☐ Respondent used or threatened me with firearms. Respondent shall not possess these firearms (describe): \_\_\_\_\_

6. ☐ Respondent shall not take, hide, sell, damage or dispose of property belonging to me (and/or the person who I want protected) or Respondent or both of us.

7. ☐ Respondent shall give me (or the person I want protected) possession or use of the following items (items may include the residence, automobile and other essential personal property no matter who owns it): \_\_\_\_\_

8. ☐ I (and/or the person I want protected) need a peace officer to help get possession of the property listed in Number 7, or I request that a peace officer come with Respondent when picking up his/her property or belongings.

9. ☐ The Court should order Respondent to complete violence counseling, which may include alcohol or chemical dependency counseling or treatment, if appropriate.

10. ☐ The Court should order the following to provide for the safety and welfare of me and/or the person I want protected, and family: \_\_\_\_\_

11. Parenting of Child/ren

**Note:** Justice and City and Municipal Courts can protect minor children by listing them on the Order of Protection. Although these courts can provide short term visitation plans, they cannot make parenting plans. If you need a parenting plan, you need to file an action in your local District or Tribal Court.

(Choose one)

- ☐ Parenting of children does not apply in this case.
- ☐ The protections I have asked for in Paragraph 2 will keep Respondent away from the children. Therefore a visitation schedule is unnecessary.
- ☐ I want the children listed in Appendix A to have parenting time with Respondent. I am attaching Appendix A that says what visitation schedule I want. *(Fill in and attach Appendix A).*

12. Other Relief: The Court should order other protection as it deems just and proper.

**I SWEAR UNDER OATH OR AFFIRM I HAVE READ THIS APPLICATION, OR HAVE HAD IT READ TO ME, AND THE FACTS STATED IN THIS APPLICATION ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I ALSO UNDERSTAND THAT PROVIDING FALSE INFORMATION IS A CRIME.**

Date: \_\_\_\_\_ Signed: \_\_\_\_\_  
Petitioner

**NOTARY SEAL OR JUDGE'S SIGNATURE**

STATE OF MONTANA     )  
                                          : ss.  
County of \_\_\_\_\_ )

SUBSCRIBED AND SWORN to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
JUDGE/CLERK/NOTARY

(For use by notary)

\_\_\_\_\_  
(signed)

Name \_\_\_\_\_  
(printed)

Notary Public for the State of Montana.

Residing at \_\_\_\_\_

My Commission Expires \_\_\_\_\_

## APPENDIX A

In this form, you will tell the Judge how the temporary visitation will take place under safe and peaceful conditions. You must have a very good reason before the Judge will deny the Respondent visitation. The visitation schedule will be temporary. For permanent parenting arrangements, you must file an action with your local District or Tribal Court.

Parenting schedules generally include:

- visits that take place on a regular basis;
- visits that vary in length depending on the ages and needs of the children.

Children *(List all children, whether or not you have asked that they be protected by the Order of Protection)*:

| Children | Age | How child is related to<br>You          Respondent |  | Who does<br>child live<br>with? | State(s) where<br>child lived in<br>the last 6<br>months? |
|----------|-----|----------------------------------------------------|--|---------------------------------|-----------------------------------------------------------|
|          |     |                                                    |  |                                 |                                                           |
|          |     |                                                    |  |                                 |                                                           |
|          |     |                                                    |  |                                 |                                                           |
|          |     |                                                    |  |                                 |                                                           |

CHECK the visitation option that you want.

☐ I request the following visitation schedule:

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☐ Supervised visits *(List why, and supervised by whom)*: \_\_\_\_\_

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☐ Neutral drop off and pick up location: \_\_\_\_\_

☐ Transportation provided by: \_\_\_\_\_

☐ I request the Respondent have no visitation with the children because: \_\_\_\_\_

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**IN THE JUSTICE COURT OF THE STATE OF MONTANA  
IN AND FOR THE COUNTY OF CARTER BEFORE  
HON. KATHLEEN "KATHY" ROSENCRANZ, JUSTICE OF THE PEACE  
214 PARK STREET, BOX 72, EKALAKA, MT 59324  
Office # 406-775-8754 Fax # 406-775-8755  
Email: CarterJusticeCourt@mt.gov**

|                                                                                                                                                                                                            |                                                                                                                                                                                                                                     |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="text-align: center; padding: 10px 0;">Vs.</div> <div style="border-bottom: 1px solid black; margin-top: 10px;"></div> | <div style="border-bottom: 1px solid black; margin-bottom: 10px;"></div> <div style="text-align: center; padding: 10px 0;"><b>INFORMATION<br/>SHEET</b></div> <div style="border-bottom: 1px solid black; margin-top: 10px;"></div> |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

**Case No:**  
(Court will assign)

PLEASE PRINT THIS INFORMATION

First, M.I., Last Name: \_\_\_\_\_

Social Security No.: \_\_\_\_\_ Birth Date: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Physical Address: \_\_\_\_\_ X if same as Mailing

Email Address: \_\_\_\_\_

Employer Name and Address \_\_\_\_\_

Attorney's Name: \_\_\_\_\_

Petitioner's / Respondent's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

# LAW ENFORCEMENT SERVICE INFORMATION

## Confidential

Please provide as much information as you can. **YOU MUST FILL IN ALL THE SHADED AREAS.** If you do not, law enforcement will not serve your order and the form will be returned to the court clerk.

**You (Remember you MUST fill in all the shaded areas):**

|                                                        |             |                            |                           |                             |             |
|--------------------------------------------------------|-------------|----------------------------|---------------------------|-----------------------------|-------------|
| <u>Last Name</u>                                       |             | <u>First</u>               |                           | <u>Middle Initial</u>       |             |
| <u>Date of Birth</u>                                   | <u>Race</u> | <u>Male ( ) Female ( )</u> |                           | <u>Social Security No.:</u> |             |
| <u>Home Address:</u>                                   |             | <u>City:</u>               |                           | <u>State:</u>               | <u>Zip:</u> |
| <u>Home Phone No.:</u>                                 |             |                            | <u>Message Phone No.:</u> |                             |             |
| <u>Work Name and Address:</u>                          |             |                            |                           | <u>Phone No.:</u>           |             |
| <u>Name of Relative or Friend Not Living With You:</u> |             |                            |                           | <u>Phone No.:</u>           |             |

**Other Persons You Wish Protection For: (Please use additional page, if needed)**

|                      |             |                            |  |                             |             |
|----------------------|-------------|----------------------------|--|-----------------------------|-------------|
| <u>Last Name</u>     |             | <u>First</u>               |  | <u>Middle Initial</u>       |             |
| <u>Date of Birth</u> | <u>Race</u> | <u>Male ( ) Female ( )</u> |  | <u>Social Security No.:</u> |             |
| <u>Home Address:</u> |             | <u>City:</u>               |  | <u>State:</u>               | <u>Zip:</u> |
| <u>Last Name</u>     |             | <u>First</u>               |  | <u>Middle Initial</u>       |             |
| <u>Date of Birth</u> | <u>Race</u> | <u>Male ( ) Female ( )</u> |  | <u>Social Security No.:</u> |             |
| <u>Home Address:</u> |             | <u>City:</u>               |  | <u>State:</u>               | <u>Zip:</u> |
| <u>Last Name</u>     |             | <u>First</u>               |  | <u>Middle Initial</u>       |             |
| <u>Date of Birth</u> | <u>Race</u> | <u>Male ( ) Female ( )</u> |  | <u>Social Security No.:</u> |             |
| <u>Home Address:</u> |             | <u>City:</u>               |  | <u>State:</u>               | <u>Zip:</u> |
| <u>Last Name</u>     |             | <u>First</u>               |  | <u>Middle Initial</u>       |             |
| <u>Date of Birth</u> | <u>Race</u> | <u>Male ( ) Female ( )</u> |  | <u>Social Security No.:</u> |             |
| <u>Home Address:</u> |             | <u>City:</u>               |  | <u>State:</u>               | <u>Zip:</u> |

**The Person Against Whom You Are Seeking the Order:**

|                                       |                |                            |                           |                             |               |
|---------------------------------------|----------------|----------------------------|---------------------------|-----------------------------|---------------|
| <u>Last Name</u>                      |                | <u>First</u>               |                           | <u>Middle Initial</u>       |               |
| <u>Date of Birth:</u>                 | <u>Race</u>    | <u>Male ( ) Female ( )</u> |                           | <u>Social Security No.:</u> |               |
| <u>Home Address:</u>                  |                | <u>City:</u>               |                           | <u>State:</u>               | <u>Zip:</u>   |
| <u>Home Phone No.:</u>                |                |                            | <u>Message Phone No.:</u> |                             |               |
| <u>Height:</u>                        | <u>Weight:</u> | <u>Hair Color:</u>         |                           | <u>Eye Color:</u>           |               |
| <u>Describe any tattoos or scars:</u> |                |                            |                           |                             |               |
|                                       |                |                            |                           |                             |               |
| <u>Employer:</u>                      |                | <u>Phone No.:</u>          |                           | <u>Work Days/Hours:</u>     |               |
| <u>Address:</u>                       |                | <u>City:</u>               |                           | <u>State:</u>               | <u>Zip:</u>   |
| <u>Name of Relative or Friend:</u>    |                |                            |                           | <u>Phone No.:</u>           |               |
| <u>Make &amp; Model of Car:</u>       |                |                            |                           | <u>Year:</u>                | <u>Color:</u> |

|                    |        |
|--------------------|--------|
| License Plate No.: | State: |
|--------------------|--------|

**Additional Important Information:**

|                                                                          |               |
|--------------------------------------------------------------------------|---------------|
| Has this person been convicted of a crime? YES [ ] NO [ ] Don't Know [ ] | If YES, What? |
| Does this person have any weapons? YES [ ] NO [ ] Don't Know [ ]         |               |
| Do you consider this person dangerous? YES [ ] NO [ ]                    |               |
| Places this person may be found:                                         |               |
|                                                                          |               |

Include written directions or a map if a street address is not available. Without sufficient address information, service of the order may be delayed or may not be possible.

Please use this space for any additional information (i.e. Additional Protected Family Members)