

Instructions for Requesting a Domestic Violence Protection Order

Important! Read Before Using This Packet of Forms.

ND Legal Self Help Center staff and court employees **can't** help you fill out the form(s). If you're unsure if these forms and instructions suit your circumstances, consult a lawyer.

ND Legal Self Help forms **aren't** official court forms. Judges and courts aren't required to accept them. There's no guarantee Center forms will be accepted. **Use at your own risk.**

You may ask for assistance from a Certified Domestic Violence Sexual Assault Advocate for help filling out the forms. Information about Certified Domestic Violence Sexual Assault Advocates is on pages 4 and 5 of these instructions.

If you need legal advice or legal representation, consult a lawyer licensed to practice in North Dakota. Go to ndcourts.gov/legal-self-help/finding-a-lawyer for information about finding a lawyer to represent you.

When you represent yourself, you're expected to know and follow the law, including:

- State or federal laws that apply to your case;
- Case law, also called court opinions, that applies to your case; and
- Court rules that apply to your case, which may include:
 - North Dakota Rules of Civil Procedure;
 - North Dakota Rules of Court;
 - North Dakota Rules of Evidence;
 - North Dakota Administrative Rules and Orders; and
 - Any local court rules.

Links to the state laws, case law, and court rules can be found at ndcourts.gov.

When you represent yourself, you're held to the same requirements and responsibilities as a lawyer, even if you don't understand the rules or procedures.

A glossary with definitions of legal terms is available at ndcourts.gov/legal-self-help.

*These instructions and forms **aren't** a complete statement of the law. They cover the basic procedure for petitioning a North Dakota state district court for a Domestic Violence Protection Order (DVPO). There's no guarantee that all judges and courts will accept forms available through the ND Legal Self Help Center. The Center isn't responsible for any consequences that may result from the forms or information provided. **Use at your own risk.***

[Chapter 14-07.1 of the North Dakota Century Code](#) governs Domestic Violence Protection Orders in North Dakota.

[Rule 34 of the North Dakota Supreme Court Administrative Rules and Orders](#) governs Certified Domestic Violence Sexual Assault Advocates.

Who May Use this Packet?

- A spouse or former spouse;
- A family member;
- A parent;
- A child;
- A person related by blood or marriage;
- A person currently living with the abusing person or who has lived with that person in the past;
- A person who has a child in common with the abusing person;
- Persons who are in a dating relationship; or
- Any other person with sufficient relationship to the abusing person as determined by the Judge or Judicial Referee.

What if the Domestic Violence Happened in North Dakota But the Respondent Isn't in North Dakota?

(The Petitioner is the person requesting a Domestic Violence Protection Order and may be any of the persons listed above. The Respondent is the person the Petitioner alleges in their petition to be engaged in domestic violence.)

Before a North Dakota State District Court can grant a Domestic Violence Protection Order, the court must have personal jurisdiction over the Petitioner and the Respondent. Personal jurisdiction gives the court the power to inquire into the facts, apply the law, and determine and pronounce judgment.

Determining whether a Respondent meets the requirements for personal jurisdiction requires legal advice. Neither ND Legal Self Help Center staff nor Court System staff can give you legal advice. You need to make this determination yourself or consult a [lawyer](#) for legal advice.

Start your legal research into personal jurisdiction with [Rule 4 of the North Dakota Rules of Civil Procedure](#).

Rule 4 includes the definition of a “person” and the requirements for exercising personal jurisdiction over a person.

What if the Domestic Violence Didn't Happen in North Dakota?

The Petitioner may file a petition for a Domestic Violence Protection Order if the domestic violence didn't happen in North Dakota, **as long as the Petitioner lives in North Dakota**. If the Respondent isn't in North Dakota, the North Dakota State District Court has personal jurisdiction over the Respondent when the Respondent enters North Dakota.

The Domestic Violence Protection Order must be limited to restraining the Respondent from contacting or committing domestic violence on the protected persons in North Dakota.

(See [Section 14-07.1-02\(9\) of the North Dakota Century Code](#).)

Overview of the Domestic Violence Protection Order Process

Step 1: Petition Filed. The Petitioner completes and files a petition with the North Dakota State District Court requesting a domestic violence protection order.

Step 2: Temporary Domestic Violence Protection Order Issued. The Judge or Judicial Referee **may** issue a temporary domestic violence protection order **if the Judge or Judicial Referee finds that the petition claims an immediate and present danger of domestic violence**, based on a claim of a recent incident of actual domestic violence.

Step 3: Hearing Scheduled; Notice of Hearing Served. A hearing is scheduled on the petition for a domestic violence protection order not later than fourteen (14) days after the Judge or Judicial Referee issues the temporary domestic violence protection order.

The Petitioner arranges for the Sheriff to serve the Respondent with the notice of the hearing and a copy of the petition.

Step 4: Hearing Held. The hearing is held to determine if the Judge or Judicial Referee will extend the temporary order and grant a domestic violence protection order. At the hearing, **the Petitioner must show evidence of actual or imminent domestic violence**.

Step 5: Judge or Judicial Referee Decides Whether to Grant Domestic Violence Protection Order. After the hearing, if the Judge or Judicial Referee finds the Petitioner proved there is evidence of actual or imminent domestic violence, a domestic violence protection order may be granted against the Respondent.

If the Judge or Judicial Referee finds that the Petitioner didn't show evidence of actual or imminent domestic violence prove at the hearing, the case is dismissed.

Definitions

Certified Domestic Violence Sexual Assault Advocate – A person who:

1. Is certified to provide direct support services to alleged victims of domestic violence or sexual assault;
2. Is affiliated with a domestic violence sexual assault program;
3. Has completed forty-two (42) hours of domestic violence and sexual assault training relating to the services and proceedings under Chapter 14-07.1 and Section 12.1-31-01.2 of the North Dakota Century Code; and
4. Has completed, in each year following the year of certification, twelve (12) additional hours of training.

District Court Judge – An elected North Dakota Judicial Branch official with the authority to hear and decide cases in North Dakota State District Courts.

Domestic Violence – Physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, sexual activity compelled by physical force, or assault, not committed in self-defense, on the complaining family or household members. This meaning also includes stalking.

Judicial Referee – A judicial officer, appointed by the presiding District Court Judge, who has the authority to hear and decide Domestic Violence Protection Order cases. The findings and order of the Judicial Referee have the effect of the findings and order of a District Court Judge until superseded by a written order of a District Court Judge.

Petitioner – Person requesting action. The Petitioner is one of the following:

- A family or household member, including:
 - A spouse or former spouse;
 - A parent;
 - A child;
 - A person related by blood or marriage;
 - A person presently living with the abusing person or who has lived with that person in the past;
 - A person who has a child in common with the abusing person; or
 - Persons who are in a dating relationship.
- Any other person with sufficient relationship to the abusing person as determined by the Judge or Judicial Referee.

Protected Party – Victim of the conduct complained of in the petition.

Respondent – Person alleged by Petitioner to be engaging in domestic violence.

Stalking –

- To engage in an intentional course of conduct directed at a specific person which frightens, intimidates, or harasses that person and which serves no legitimate purpose. The course of conduct may be directed toward that person or a member of that person's immediate family and must cause a reasonable person to experience fear, intimidation, or harassment; or
- The unauthorized tracking of the person's movements or location through the use of a global positioning system or other electronic means that would cause a reasonable person to be frightened, intimidated, or harassed and which serves no legitimate purpose.

What Does a Certified Domestic Violence Sexual Assault Advocate Do?

A [Certified Domestic Violence Sexual Assault Advocate](#) may:

1. Assist with completing printed forms for proceedings under [Chapter 14-07.1](#) and [Section 12.1-31-01.2](#) of the North Dakota Century Code; and
2. Sit with the Petitioner during court proceedings.

How to Find a Certified Domestic Violence Sexual Assault Advocate

Contact North Dakota Domestic & Sexual Violence Coalition for information about domestic violence/sexual assault (DA/SA) victim advocacy centers across North Dakota staffed with professionals who can help you with safety planning, findings shelter, obtaining a protection order, and more.

North Dakota Domestic & Sexual Violence Coalition
521 E Main Ave, Suite 320
Bismarck, ND 58501
(701) 255-6240, Ext. 1016
(888) 255-6240 - nddsvc.org/FIND-HELP

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Is a Certified Domestic Violence Sexual Assault Advocate My Lawyer?

No, a Certified Domestic Violence Sexual Assault Advocate isn't your lawyer and can't act as your lawyer at the hearing. You may choose to have both a Certified Domestic Violence Sexual Assault Advocate assist you **and** a lawyer represent you. If you retain a lawyer, you're responsible for paying the lawyer's fees.

If you want to find a lawyer to represent you, you may find the following options of interest.

- **Legal Services of North Dakota** is a non-profit organization, providing free legal assistance to North Dakota residents in a variety of matters based on income. Legal Services of North Dakota can also determine whether an applicant meets the income requirements for the Volunteer Lawyers program that offers low-cost legal assistance based on income. The phone number is (800) 634-5263 and the website is lsnd.org.
- **Dakota Plains Legal Services** is a non-profit legal services organization that provides free legal assistance to low-income individuals, older Americans and veterans. Dakota Plains Legal Services (DPLS) has eight offices and serves communities across South Dakota and North Dakota, including nine tribal nations. DPLS is committed to increasing access to justice with quality legal assistance. Contact information is available on the DPLS webpage of dpls.org.
- **The State Bar Association of North Dakota** provides a lawyer referral service to match paying clients in need of legal services with lawyers. The phone number is (866) 450-9579 and the website is sband.org.
- **For a list of all lawyers who are licensed to practice in North Dakota**, go to the North Dakota Supreme Court website at ndcourts.gov/Lawyers.

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Five Steps to Request a Domestic Violence Protection Order

Step 1 – Prepare the Domestic Violence Protection Order Forms; File with the Clerk of Court.

Complete the following two forms:

1. Petition For Protective Relief
2. Protection Order/Restraining Order Cover Sheet

Petition For Protective Relief

Caption (*top of form*):

- ☐ Fill in the name of County in North Dakota where you'll file your petition.
- ☐ Fill in the name of the Judicial District in North Dakota. (*The County is within the Judicial District.*)
 - County and Judicial District information and maps are available at ndcourts.gov.
- ☐ Leave the Case Number blank. This is assigned by the Clerk of Court at the end of Step 1.
- ☐ You're the Petitioner. Fill in your full name.
 - If there are multiple Protected Parties against one Respondent they can all be included on one petition.
- ☐ The Respondent is the person from whom you're seeking protection. Fill in their full name.
 - **There must be a separate petition for each Respondent.**
 - **If possible, use the Respondent's full, complete name, not nicknames.**

Opening Paragraph:

- ☐ Fill in your full name.

Paragraph 1:

- ☐ Fill in the name of the North Dakota County where you live, and the address where you currently live (*address is optional*).

Paragraph 2:

- ☐ If you're requesting to be the protected party, checkmark ☒ the first box.
- ☐ If there are children living with you, also checkmark ☒ the second box and list the number of children.

- ☐ Fill in each child's name, date of birth (DOB) and indicate whether they're the Respondent's children and if they're to be a Protected Party. For example:

○ John Doe 01/01/2011 Yes Yes

Paragraph 3:

- ☐ If possible, fill in the full name of the Respondent. The Respondent is the person you listed in the caption of this form.
- ☐ Fill in your relationship to the Respondent. For example, married, divorced, dating, etc.

Paragraph 4:

- ☐ Fill in the Respondent's place of residence. If possible, list the full address. If you don't know, type or write "I don't know" or "Unknown" and list their last known address.

Paragraph 5:

- ☐ Fill in any other places where the Respondent can be found. If possible, include addresses.

Paragraph 6:

- ☐ Fill in the name, address, and phone number of the Respondent's employer.
- If you don't know, type or write "I don't know" or "Unknown."

Paragraph 7:

- ☐ Complete the description of the Respondent - height, weight, age, DOB, and sex. Any special identifying marks (glasses, long hair, beard, tattoos, scars, piercings, etc.) and general appearance of the Respondent.

Paragraphs 8 and 9:

- ☐ Read these paragraphs carefully.
- You're asking the court to restrain the Respondent from harassing, threatening, molesting, stalking, or injuring you or others.
- You're asking the court to restrain the Respondent from having contacting with you or others.

Paragraph 10:

- ☐ Fill in the places where you want the Respondent to be excluded from – residence, work, daycare, or other optional places.

Paragraph 11:

- ☐ Checkmark ☒ the box if children are involved and circle whether you want or don't want custody.

Paragraph 12:

- ☐ Checkmark ☒ the box if children are involved and circle whether you're or aren't willing to grant visiting rights to the Respondent.
- If you're willing to allow visitation, complete the Visitation Proposal section of Paragraph 12.

Paragraph 13:

- ☐ Checkmark ☒ the box if you're asking the Respondent to surrender property. List the property.
- ☐ Checkmark ☒ the box if you need financial assistance from the Respondent.
- ☐ Checkmark ☒ the box if you're requesting any other relief. Write in the relief requested.
- If you're unsure what type of further relief you should request, contact a Certified Domestic Violence Sexual Assault Advocate for assistance **before** you complete, sign and file the petition. The Certified Domestic Violence Sexual Assault Advocate may be able to assist you with figuring out other relief.
 - You may also retain a lawyer licensed to practice in North Dakota.

Paragraph 14:

- ☐ Checkmark ☒ the first box if there's an outstanding Court Order that addresses visitation, custody, or contact between you and the Respondent.
- Examples of orders that address visitation, custody or contact between you and the Respondent include:
 - a divorce judgment or decree,
 - a legal separation judgment,
 - a judgment establishing parenting rights and responsibilities between unmarried parents, or
 - a paternity judgment.
- ☐ Checkmark ☒ the second box if **no** outstanding Court Order exists that addresses visitation, custody, or contact between you and the Respondent.

Paragraph 15:

- ☐ Read this paragraph carefully. You're stating there is immediate and present danger that the domestic violence will continue against you.

Paragraph 16:

- ☐ Describe the incidents that took place between you and the Respondent. Start with the most recent incident.
 - If you need more room, use separate sheets of paper to type or write the incidents.
 - Type or write on only one side of the separate sheets of paper.
 - Don't write on the back of the form.
- ☐ Checkmark ☒ the box if the Respondent has used, displayed, or threatened to use a firearm or other dangerous weapon in acts of violence against you. Briefly describe the incidents, including dates, places, and times, starting with the most recent incident.
 - If you need more room, use separate sheets of paper to type or write the incidents.
 - Type or write on only one side of the separate sheets of paper.
 - Don't write on the back of the form.

Paragraph 17:

- ☐ List any civil or criminal actions involving both you and the Respondent. Include any outstanding visitation or custody orders and other civil or criminal actions involving you and the Respondent.

Paragraph 18 and Signature Block:

- ☐ **Read Paragraph 18 carefully!** When you date and sign the petition, you're telling the court, under penalty of perjury, that everything in your completed the petition is true and correct.
- ☐ Fill in the following:
 - The date you signed the petition;
 - The City where you signed the petition;
 - The County where you signed the petition;
 - The State where you signed the petition; and
 - The Country where you signed the petition.
- ☐ Sign the petition and fill in the information below the signature line.

Protection Order/ Restraining Order Cover Sheet

- ☐ Complete the Cover Sheet with as much information as you can. This form helps law enforcement enforce the Judge's or Judicial Referee's order.
 - All areas marked with * must be completed.
 - Attach additional sheets if needed; don't use the back side of the form for additional information.

File the Following Completed Forms with the Clerk of District Court of the County you Listed in the Caption of your Petition:

1. Petition For Protective Relief
2. Protection/Disorderly Conduct Restraining Order Cover Sheet

You won't be charged a filing fee. There's **no** filing fee for victims seeking a civil protection order.

Step 2 – The Judge or Judicial Referee May Issue a Temporary Domestic Violence Protection Order.

After your petition is accepted for filing by the Clerk of Court, the Clerk of Court forwards your petition to a Judge or Judicial Referee for review.

The Judge or Judicial Referee reviews your petition to determine if the information you included shows that there's an immediate and present danger of abuse.

If the Judge or Judicial Referee finds the Petition for Protective Relief alleges an immediate and present danger of abuse based upon a recent incident of actual or threatened domestic violence, the Judge or Judicial Referee will sign an Ex Parte Temporary Domestic Violence Protection Order.

The Ex Parte Temporary Domestic Violence Protection Order may include the following emergency relief:

- Restraining any party from having contact with or committing acts of domestic violence on another person.
- Excluding the Respondent or any person with whom the Respondent lives from the dwelling they share, from the residence of another person, or from a domestic violence shelter care facility.
- Awarding temporary custody or establishing temporary visitation rights with regard to minor children.

- Requiring the Respondent to surrender to local law enforcement any firearms or dangerous weapons under the Respondent's control.

The Temporary Order doesn't provide for support, counseling, or attorney fees.

Step 3 – The Hearing is Scheduled; Petitioner Arranges for the Sheriff to Serve the Temporary Order & Notice of Hearing on the Respondent.

The District Court will schedule a time and date for the hearing on your Petition. The hearing will be scheduled within 14 days of the approval of the Ex Parte Temporary Domestic Violence Protection Order.

Service must be made on the Respondent at least five days prior to the hearing. Service must be attempted before service by publication may be attempted. If service can't be made, the Judge or Judicial Referee may set a new hearing date.

The Petitioner must arrange for the sheriff to serve copies of the following on the Respondent:

- The Notice of Hearing; and
- The Temporary Domestic Violence Protection Order.
 - The Notice of Hearing may be combined with the Temporary Order.

Give the Sheriff the Respondent's full name and current location. If you don't know, make sure you give the Sheriff all of the information you know about the Respondent. If the Sheriff can't find the Respondent, they may not be able to complete service. **The Temporary Order isn't in effect until the Respondent is served.**

If the Respondent is a minor (less than 18 years old), the Respondent's parents must also be served. Give the Sheriff the full names and current locations of the Respondent's parents.

Once the Respondent is served with the Ex Parte Temporary Domestic Violence Protection Order, the Temporary Order is in effect and any violations should be reported to law enforcement.

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Step 4 – Attend the Hearing.

You must attend at the hearing. If you're working with a Certified Domestic Violence Sexual Assault Advocate, the advocate can attend the hearing with you.

At the hearing, you must prove the facts you included in your petition.

If you have any witnesses to the facts you included in your petition, you may bring them with you to the hearing.

The hearing also gives the Respondent the opportunity to give their side of the story and present their witnesses to the facts you included in your Petition.

After the hearing, the Judge or Judicial Referee will decide if you've proven there's sufficient evidence of actual or imminent domestic violence by the Respondent to grant a Domestic Violence.

Step 5 – The Judge or Judicial Referee Decides Whether to Grant the Domestic Violence Protection Order.

After the hearing is held, if the Judge or Judicial Referee determines you've proven that there's sufficient evidence of actual or imminent domestic violence, the Judge or Judicial Referee will grant the Domestic Violence Protection Order and give the length of the Order.

The Judge or Judicial Referee may amend the Order at any time upon a later petition filed by either party.

The Domestic Violence Protection Order may include any or all of the following relief:

- Restraining the Respondent from threatening, molesting, injuring, or having contact of any kind with the Petitioner and/or the child(ren).
- Excluding the Respondent from the Petitioner's and/or Protected Party's household.
- Awarding temporary custody and/or visitation rights with minor child(ren), requiring payment of child support and/or spousal support.
- Recommending or requiring counseling with a domestic violence program or other appropriate agency.
- Requiring the Respondent to pay reasonable attorney fees and costs.
- Awarding temporary use of personal property, including motor vehicles, to either party.
- Requiring the Respondent to surrender weapons under the Respondent's control to local law enforcement if there is probable cause of future actual or threatened violence.

- Appointing a guardian ad litem for the benefit of the minor child or minor children. The Judge or Judicial Referee may direct either or both parties to pay the guardian ad litem fees established by the Judge or Judicial Referee.

The Clerk of Court sends a copy of the Domestic Violence Protection Order to the local law enforcement agency with jurisdiction over the residence of the victim.

The Domestic Violence Protection Order is served on the Respondent by the Sheriff.

Report any violations of the Order immediately to local law enforcement.

If the Judge or Judicial Referee decides that you didn't prove the facts you listed in your petition, the case is dismissed and the Temporary Order is no longer in effect.