

Instructions for Requesting a Sexual Assault Restraining Order

Important! Read Before Using This Packet of Forms.

ND Legal Self Help 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.**

[North Dakota Century Code § 12.1-31.2-01](#) allows a state's attorney to advise and assist any person in the preparation of documents necessary to secure a restraining order. There are limitations on the amount of assistance a state's attorney may provide.

You may seek assistance from a Certified Domestic Violence Sexual Assault Advocate for help filling out the forms. Information about Certified Domestic Violence Sexual Assault Advocates is found on Pages 3-5 below.

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

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

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 basic procedure for petitioning for a sexual assault restraining order. 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.***

[Section 12.1-31-01.2 of the North Dakota Century Code](#) governs sexual assault restraining 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?

1. Any adult (18 years old or older) who is a victim of sexual assault; **or**
2. The parent, step-parent, or guardian of a minor child (under 18 years of age) who the parent, step-parent, or guardian reasonably believes is a victim of sexual assault.

Overview of the Sexual Assault Restraining Order Process

Step 1: Petition Filed. The Petitioner completes and files a petition with the North Dakota State District Court requesting a sexual assault restraining order.

Step 2: Temporary Sexual Assault Restraining Order Issued. The Judge or Judicial Referee **may** issue a temporary sexual assault restraining order **if the Judge or Judicial Referee finds that the petition alleges reasonable grounds to believe the Respondent committed sexual assault.**

Step 3: Hearing Scheduled; Notice of Hearing Served. A hearing is scheduled on the petition for a sexual assault restraining order **not later than fourteen (14) days** after the court issues the temporary sexual assault restraining 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 decide whether the Judge or Judicial Referee will extend the temporary sexual assault restraining order and grant a sexual assault restraining order. At the hearing, **the Petitioner must show the Judge or Judicial Referee that there are reasonable grounds for the Judge or Judicial Referee to believe the sexual assault was committed by the Respondent.**

Step 5: Judge or Judicial Referee Decides Whether to Grant Sexual Assault Restraining Order. If the Judge or Judicial Referee finds that the Petitioner proved there are reasonable grounds to believe the Respondent committed sexual assault, the Judge or Judicial Referee may grant a sexual assault restraining order. **The sexual assault restraining order can't last more than two years.**

If the Judge or Judicial Referee finds that the Petitioner didn't prove at the hearing that there are reasonable grounds for the court to believe the sexual assault was committed by the Respondent, the case is dismissed.

Definitions

Adult – An individual who is 18 years of age or older.

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.

Judicial Referee – A judicial officer, appointed by the presiding District Court Judge, who has the authority to hear and decide Sexual Assault Restraining 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.

Minor – An individual who is under 18 years of age.

Petitioner – Individual requesting action. The Petitioner is either:

1. The adult victim of sexual assault; **or**
2. The parent, step-parent or guardian or the minor child who is the victim of sexual assault.

Protected Party – Victim of the sexual assault complained of in the petition.

Respondent – Person alleged by Petitioner to have committed sexual assault.

Sexual Assault – Any non-consensual sexual offense listed in [Chapter 12.1-20 of the North Dakota Century Code](#) for which sexual act or sexual contact, as defined in [Section 12.1-20-02 of the North Dakota Century Code](#), is an element.

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

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.

Five Steps to Request a Sexual Assault Restraining Order

Step 1 – Prepare the Sexual Assault Restraining Order Forms; File with the Clerk of Court.

Complete the following three forms:

1. Petition For Sexual Assault Restraining Order
2. Confidential Information Form (*located after Page 3 of the Petition*)
3. Protection Order/Restraining Order Cover Sheet

Petition For Sexual Assault Restraining Order

Caption (*top of form*):

- Fill in the name of the County in North Dakota where you intend to 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.**
 - Try to use the full, complete name, not nicknames.

First Sentence:

- Fill in your full name.

Paragraph 1:

- If you, the Petitioner, are the victim of sexual assault, put a checkmark in the first box.
- If your minor child is the victim of sexual assault, put a checkmark in the second box. Put a checkmark in the box that indicates your relationship. Fill in the initials of the minor child. (*You'll provide the minor child's full, legal name in the Confidential Information Form.*)

Paragraph 2:

- Fill in your address.
 - If you want the Judge or Judicial Referee to allow you to leave the address blank, type or write why you want to be allowed to leave this blank.

Paragraph 3:

- If you (*the Petitioner*) are the victim of sexual assault, put a checkmark in the first box. Fill in your age. (**Don't** provide your birthdate. *You'll provide your birthdate in the Confidential Information Form.*)
- If your minor child is the victim of sexual assault, put a checkmark in the second box. Fill in the minor child's age. (**Don't** provide the minor child's birthdate. *You'll provide the minor child's birthdate in the Confidential Information Form.*)

Paragraph 4:

- Fill the Respondent's address.
 - If possible, list their 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 the Respondent's age. (**Don't** provide the Respondent's birthdate. *You'll provide the Respondent's birthdate in the Confidential Information Form.*)

Paragraph 6:

- If you're the victim of sexual assault, put a checkmark in the first box. Fill in your relationship to the Respondent.
- If your minor child is the victim of sexual assault, put a checkmark in the second box. Fill in the minor child's relationship to the Respondent.

Paragraph 7:

- Describe the actions or incidents that support your request for the Temporary Sexual Assault Restraining Order. Include dates and as many details or facts as you can to show why you need the Order.
 - If you need more room, use separate sheets of paper to type or write the actions or incidents.
 - Type or write on only one side of the separate sheets of paper.
 - Don't write on the back of the form.
 - The page with your signature should be the last page of the document.

Paragraph 8:

- List the names of any persons who may have witnessed the events you list in Paragraph 7 of your Petition.

Paragraph 9:

- If you're the victim of sexual assault, put a checkmark in the first box of Paragraph 9(a), 9(b) and 9(c).
- If your minor child is the victim of sexual assault, put a checkmark in the second box of Paragraph 9(a), 9(b) and 9(c).

Paragraph 10:

- Read this paragraph carefully. You're requesting the required hearing for a sexual assault restraining order.

Paragraph 11 and Signature Block:

- Read Paragraph 11 carefully!** When you date and sign the petition, you're telling the Court, under penalty of perjury, that everything in your completed petition is true and correct, and that you understand that if the restraining order is granted, you can't modify or dismiss the restraining order unless the court approves.
- 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.

Confidential Information Form (located after Page 3 of the Petition)

The information on this form is confidential and isn't placed in a publically accessible portion of the court file.

Top of Form (Caption):

- Fill in the top of the form exactly as you filled in the top of the Petition for Sexual Assault Restraining Order form. The Case No. will be assigned by the Clerk of Court in Step 2.

Petitioner, Respondent and Minor Child Information:

- Full Information Column:
 - Fill in the full information for the Petitioner, Respondent and Minor Child (*if applicable*).
- Redacted Information Column:
 - Fill in the information as it appears in the Petition for Sexual Assault Restraining Order form.

Date and Signature:

- Sign and date the completed form.

Protection Order/Restraining Order Cover Sheet

- Complete the Cover Sheet with as much information as you can. This form is designed to help 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 Sexual Assault Restraining Order
2. Confidential Information Form
3. Protection Order/Restraining Order Cover Sheet

You won't be required to pay a filing fee. (See [North Dakota Century Code Subsection 12.1-31-01.2\(12\).](#))

Step 2 – The Judge or Judicial Referee May Issue a Temporary Sexual Assault Restraining Order.

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

The Judge or Judicial Referee reviews your petition to determine if the information you included is enough to find there are reasonable grounds to believe the Respondent engaged committed sexual assault.

If the Judge or Judicial Referee finds reasonable grounds to believe the Respondent committed sexual assault, the Judge or Judicial Referee signs a Temporary Sexual Assault Restraining Order.

The Temporary Sexual Assault Restraining Order **must** include the following:

- Prohibiting the Respondent from harassing, stalking, or threatening the individual requesting the order;
- Prohibiting the Respondent from appearing at the individual's residence, school, and place of employment; and
- Prohibiting the Respondent from contacting the individual requesting the order.

The Temporary Sexual Assault Restraining Order may **only** be entered against the Respondent.

The Temporary Sexual Assault Restraining Order is in effect until one of the following happens:

- The Judge or Judicial Referee grants a more permanent Sexual Assault Restraining Order after the hearing is held;
- The Judge or Judicial Referee ends the Temporary Sexual Assault Restraining Order before the hearing is held (usually with a new written order); or
- After the hearing, the Judge or Judicial Referee dismisses your case.

(This space left intentionally blank.)

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 Temporary Sexual Assault Restraining Order.

If service can't be made on the Respondent, the court may set a new hearing date.

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

- The Notice of Hearing; and
- The Temporary Sexual Assault Restraining 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.

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

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 the witnesses with you to the hearing.

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

At the hearing, the Judge or Judicial Referee will determine whether the Temporary Order should be extended and whether a Sexual Assault Restraining Order should be issued for a set period of time. The set period of time can't be for more than two (2) years.

Step 5 – The Judge or Judicial Referee Decides Whether to Grant the Sexual Assault Restraining Order.

After the hearing is held, if the Judge or Judicial Referee finds reasonable grounds to believe the Respondent committed sexual assault, the Judge or Judicial Referee signs a Sexual Assault Restraining Order. The Order can't last more than 2 years.

The Clerk of Court sends a copy of the Sexual Assault Restraining Order to the local law enforcement agency with jurisdiction over the residence of the victim.

The Sexual Assault Restraining 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.