

SOUTH DAKOTA PROTECTION ORDER FROM ACTS OF DOMESTIC ABUSE, ACTS OF STALKING OR PHYSICAL INJURY, AND ACTS OF VULNERABLE ADULT ABUSE

READ THESE INSTRUCTIONS AND REVIEW THE FORMS BEFORE BEGINNING TO FILL THEM OUT

APPLICATION INSTRUCTIONS FOR THE VICTIM OF DOMESTIC ABUSE, STALKING/PHYSICAL INJURY, OR VULNERABLE ADULT ABUSE

REQUIREMENTS OF THE LAW. You may seek a protection order from “domestic abuse,” from “stalking”/“physical injury,” or from “vulnerable adult abuse.” If you do not qualify for a domestic abuse protection order, you may still qualify for a protection order for stalking/physical injury or vulnerable adult abuse. In order for the judge to grant a protection order, you must meet certain criteria.

SHOULD BE A RESIDENT OF THE COUNTY. You should file in the county where you, the respondent, or another party you seek to protect with the protection order resides.

IF YOU ARE SEEKING A PROTECTION ORDER FOR DOMESTIC ABUSE

YOU MUST HAVE A PERSONAL RELATIONSHIP WITH THE RESPONDENT. You must have a personal relationship with the person against whom you are seeking an order of protection (the alleged abuser). An alleged abuser can be a (1) spouse, 2) former spouse, (3) parent or child, (4) sibling, (5) person in a significant romantic relationship with you, or (6) person with whom you have had a child or am expecting a child with. If your relationship is not one of the above, you cannot seek a protection order for domestic abuse. You may, however, be able to receive a protection order for stalking as defined later in these instructions.

YOU MUST ALLEGE PHYSICAL HARM. The person against whom you seek an order **(1) must have caused you physical injury or harm, (2) must have attempted to cause you physical injury or harm, or (3) you are afraid that the person is about to cause you physical injury or harm.** If the person has not done any of these things, you cannot seek a protection order for domestic abuse. You may, however, be able to receive a protection order for stalking or for vulnerable adult abuse as defined later in these instructions.

IF YOU ARE SEEKING A PROTECTION ORDER FOR STALKING OR FROM PHYSICAL INJURY

YOU MUST ALLEGE STALKING. The person's acts of harassment must **seriously alarm, annoy or harass** you. The person against whom you seek a stalking order must have: (1) **followed or harassed** you in a willful and malicious manner and have done so **more than once**; or (2) made believable **threats** against you **with the intent to make you fearful of great bodily injury**; or (3) **harassed** you in a willful and malicious manner by means of verbal, electronic, digital media, mechanical, telegraphic, or written communication and have done so **more than once**. The person must intend to carry out the threats and have the apparent ability to do so, or (4) **you, as the petitioner, have suffered physical injury as a result of an assault or a crime of violence.**

A crime of violence is murder, manslaughter, rape, aggravated assault, riot, robbery, burglary in the first or second degree, arson, kidnapping, felony sexual contact or any other felony in the commission of which the perpetrator used force, or was armed with a dangerous weapon, or used any explosive or destructive device. It also includes an attempt or conspiracy to commit the above-described crimes.

**IF YOU ARE SEEKING A PROTECTION ORDER
FOR VULNERABLE ADULT ABUSE**

THERE MUST BE AN ADULT WITH A DISABILITY OR AN ELDER (AGE 65 AND OLDER) WHO IS UNABLE TO PROTECT THEMSELVES FROM ABUSE. Such abuse can include (1) physical abuse or attempted physical abuse, (2) repeated emotional and psychological abuse by a caretaker (such as sexual exploitation, unreasonable confinement, threats of harm or harm to the property of the vulnerable adult, and harassment or ridiculing/demeaning conduct), or (3) financial exploitation by a caretaker, family member, or a person who is in a confidential relationship with the vulnerable adult (such as a guardian, conservator, or agent).

**IF YOU MEET THE LEGAL CRITERIA STATED ABOVE, YOU MAY
COMPLETE THE FORMS WITH THE FOLLOWING INSTRUCTIONS**

1. **FILL OUT THE PETITIONER AND RESPONDENT INFORMATION SHEETS AND THE PETITION AND AFFIDAVIT FOR A PROTECTION ORDER** *(please print names)*. You are the PETITIONER; the person against whom you seek a protection order is the RESPONDENT.
2. **THE PETITION AND AFFIDAVIT MUST BE THE TRUTH.** *Do not sign your name at the end of the form.* You will need to sign it before a court clerk and swear to its truth or if you are unable to take it to the Clerk's Office yourself, you may sign it before a notary.
3. **REQUIREMENT FOR AN IMMEDIATE ORDER.** If you are requesting that the judge grant you an immediate temporary protection order without the Respondent having notice of your request or an opportunity to be heard, **YOU MUST BE ABLE TO CLAIM THAT IMMEDIATE AND GREAT INJURY, LOSS OR DAMAGE WOULD OCCUR IF YOU HAD TO WAIT UNTIL A HEARING.**
4. **JUDGE MUST SIGN THE ORDER.** The judge will review your petition and affidavit. If the judge grants you a temporary protection order and/or a hearing, the clerk will prepare certified copies of the orders. *You will need to pick up the copies of the orders at the Clerk of Courts Office where you filed.*
5. **DELIVER FORMS TO THE SHERIFF.** Take two copies of the forms to the Sheriff Office, in the County where the petition is filed.
6. **KEEP ONE COPY OF THE SIGNED FORMS WITH YOU AT ALL TIMES.**
7. **YOU MUST ATTEND THE HEARING FOR THE PROTECTION ORDER.**
8. **THE HEARING IS THE TIME SET FOR YOU TO PROVE YOUR CASE.** You will need to bring with you to the hearing any witnesses that have first-hand knowledge of the incidents that have occurred, any documentation such as pictures, phone logs, email messages, text messages, etc.

**IF THE RESPONDENT VIOLATES ANY PROTECTION ORDER,
CALL THE POLICE IMMEDIATELY**

TPO: _____ **Petitioner Information** **Date:** _____

Required Information

Last Name First Middle Suffix

Birth Date: _____ (MM/DD/YYYY) Sex: _____ (M=Male, F=Female)

Race: ____ (A=Asian/Pacific Islander, B=Black, I=American Indian, W=White, O=Other, U=Unknown)

Present

Address: _____

City: _____ State: _____ Zip: _____ - _____

Is there any other lawsuit, complaint, petition, or other action pending between you and the respondent? _____ Yes _____ No

If you answered "Yes" above, what county is the other action filed in? _____

What is the docket or case number for the other action? _____

Your Attorney's name (if any): _____

Your Attorney's mailing address: _____
(street or PO Box, City, State, Zip Code)

Your Attorney's telephone: (_____) _____ - _____

My mailing address is the same as my present address.

Mailing

Address: _____

City: _____ State: _____ Zip: _____ - _____

Driver's

License Number: _____ License State: _____

SSN: _____

Eye Color: _____ Hair Color: _____ Weight: _____ Height: _____

Phone Number Type

1 (_____) _____ - _____ **H=Home, W=Work, C=Cell, O=Other, F=Fax**

2 (_____) _____ - _____ **H=Home, W=Work, C=Cell, O=Other, F=Fax**

3 (_____) _____ - _____ **H=Home, W=Work, C=Cell, O=Other, F=Fax**

TPO: _____ Respondent Information Date: _____

Required Information

Name: _____

Birth Date: _____ Last _____ (MM/DD/YYYY) First _____ Middle _____ Sex: _____ (M=Male, F=Female, U=Unknown)

Driver's License Number: _____ License State: _____ SSN: _____

Present Address: _____

City: _____ State: _____ Zip: _____ - _____

Mailing Address: _____

City: _____ State: _____ Zip: _____ - _____

Race: _____ (A=Asian/Pacific Islander, B=Black, I=American Indian, O=Other, W=White, U=Unknown)

Eye Color: _____ Hair Color: _____ Weight: _____ Height: _____

Distinguishing Features: _____

Phone Number 1 (____) _____ - _____ (H=Home, W=Work, C=Cell, O=Other, F=Fax)

2 (____) _____ - _____ (H=Home, W=Work, C=Cell, O=Other, F=Fax)

3 (____) _____ - _____ (H=Home, W=Work, C=Cell, O=Other, F=Fax)

Misc. Indicator: ___ Martial Arts Expert ___ Explosives Expert ___ Known to Abuse Drugs

Medical Indicator: ___ Heart Condition ___ Alcoholic ___ Allergies
___ Epilepsy ___ Suicidal ___ Medication Required
___ Hemophiliac ___ Diabetic
___ Other _____

Interpreter needed Language _____

Respondent Vehicles

License Plate Number	State	Year	Make	Model	Color
1. _____					
2. _____					
3. _____					

Occupation: _____ Place of Employment: _____

Work Days: _____ Work Hours: _____

Other persons at Respondent's residence: _____

Other addresses or locations (hangouts) where Respondent can be found:

Location: _____

City: _____ State: _____ Zip: _____ - _____

Location: _____

City: _____ State: _____ Zip: _____ - _____

STATE OF SOUTH DAKOTA)
)
COUNTY OF _____)

IN CIRCUIT COURT

JUDICIAL CIRCUIT

<p>_____ Petitioner</p> <p>-vs-</p> <p>_____ Respondent</p>	<p>TPO NO. _____</p> <p>PETITION AND AFFIDAVIT FOR A PROTECTION ORDER (DOMESTIC ABUSE)</p>
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I, _____, the above-named Petitioner, or the Parent/Guardian of the minor child Petitioner (the Filer), being duly sworn upon oath, state and affirm the following:

At least one party to the protection order—Petitioner, Respondent (the person against whom I seek this Protection Order), or a Protected Party (a minor child in my custody also victimized by Respondent)—is a resident of South Dakota. Petitioner resides in _____ County, _____ (state); Respondent resides in _____ County, _____ (state); and any Protected Parties not residing with Petitioner or Respondent, reside in _____ County, _____ (state).

Please check this box if there is a custody order in another state regarding the children of Petitioner and Respondent. Please attach a copy of the custody order to this Petition.

The person I am asking the Court to restrain from committing acts of domestic abuse (the Respondent) is, in relation to the Petitioner and any Protected Parties:

(check all that apply):

- a spouse (married);
- a former spouse (divorced);
- a parent or child;
- a sibling;
- a person in a significant romantic relationship with Petitioner or any Protected Parties;
- a person with whom Petitioner or any Protected Parties have had a child or are expecting a child.

I AM ASKING THE COURT FOR A PROTECTION ORDER BASED UPON THE FACTS BELOW:

On or about (month) _____ (day) _____, (year) _____, at approximately _____ o'clock _____ (am/pm), Respondent committed the following act(s) of domestic abuse against Petitioner (if not me, my minor child who is related to Respondent) and any Protected Parties (other minor child in my custody related to Respondent):

(check all that apply):

- Respondent caused physical harm or bodily injury.
- Respondent attempted to cause physical harm or bodily injury.
- Respondent's actions inflicted fear in Petitioner and/or any Protected Parties that Respondent was about to cause physical harm or bodily injury to said Petitioner or Protected Party.
- Respondent violated a protection order.

- Respondent willfully, maliciously, and repeatedly followed Petitioner and/or any Protected Parties.
- Respondent pursued a knowing and willful course of conduct which seriously alarmed, annoyed, or harassed Petitioner and/or any Protected Parties with no legitimate purpose. The pattern of conduct was a series of acts over a period of time, however short, showing a continuing pattern of harassment.
- Respondent made a credible threat with intent to cause Petitioner and/or any Protected Parties reasonable fear of death or great bodily injury.
- The person willfully, maliciously, and repeatedly harassed Petitioner and/or any Protected Parties by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
- Respondent committed a crime of violence against Petitioner or any Protected Parties.

Provide a detailed description of what happened on the above date: _____

- Yes No Don't Know
- Yes No Don't Know
- Yes No Don't Know
- Yes No Don't Know

Was law enforcement called?
 Was Respondent arrested for this incident?
 Is Respondent in jail?
 Has Respondent violated previous protection orders?
 If so, against whom _____
 Give the date of the violation _____ and the county and state of the violation _____

- Yes No Don't Know

Has Respondent been found guilty of violating previous protection orders?
 If so, against whom _____
 Give the date of the conviction _____ and the county and state of the conviction _____

- Yes No Don't Know
- Yes No Don't Know
- Yes No Don't Know

Does Respondent possess guns or weapons?
 Was a weapon used in this incident?
 Has Respondent threatened anyone with a weapon?

Provide a detailed description of other similar incidents or actions that Respondent has committed and reasons you believe it will continue: _____

REQUEST FOR HEARING AND PROTECTION ORDER

Based upon this Petition and Affidavit in which I truthfully set forth the details of the domestic abuse, I respectfully ask the Court to set a date to hear this matter and after hearing the evidence, to grant Petitioner and any Protected Parties a Protection Order:

- 1) To Restrain Respondent from acts of abuse and physical harm, making threats of abuse, stalking or harassment.
- 2) To Grant the Protection Order for a period of _____ time (*no longer than 5 years*).
- 3) To exclude Respondent from Petitioner's residence listed in 4C.
- 4) To Order that Respondent shall not come within a distance of _____ from the following persons and places:

A. The Petitioner personally

B. The following minor children named as other Protected Parties: More names attached

Name	Date of birth	Relationship
_____	_____	_____
_____	_____	_____
_____	_____	_____

C. Petitioner's residence (street/apt) _____
(city) _____, (state) _____, (zip) _____ - _____

D. Petitioner's place of employment (street) _____
(city) _____, (state) _____ (zip) _____ - _____

E. Other places (street/apt) _____
 (city) _____, (state) _____ (zip) _____ - _____
 (street/apt) _____
 (city) _____, (state) _____ (zip) _____ - _____
 (street/apt) _____
 (city) _____, (state) _____ (zip) _____ - _____

5) To award me temporary custody of our minor child(ren), whose names are _____

6) To establish temporary visitation for Respondent with the minor child(ren) named above consisting of:

- Existing order in File # _____ Supervised at _____
- Jurisdiction: South Dakota South Dakota tribe Other State _____ Other _____
- Other Visitation: _____

- 7) To Order that Respondent shall pay temporary *(If you are requesting support, you must provide proof of the monthly income of both parties at the hearing.):*
 - child support in the amount of \$ _____ a month starting on _____ and continuing until further order of the Court;
*Child support shall be paid to: Office of Child Support Enforcement
Kneip Building
700 Governors Drive
Pierre, SD 57501*
 - spousal support in the amount of \$ _____ a month starting on _____ and continuing until further order of the Court.
Spousal support shall be paid to the Clerk of Courts Office in the county this order was filed.
- 8) To Order Respondent receive parenting classes approved or provided by the Department of Social Services, SDCL 25-10-5.
- 9) To Order Respondent to obtain counseling as follows: _____
- 10) That Respondent be restrained from contact with the Petitioner and any Protected Parties, by any direct or indirect means except as authorized by a court order.
- 11) To Order other relief which I believe is necessary for Petitioner's protection and any Protected Parties' protection, as follows: _____

(If you are requesting an immediate temporary protection order without notice to Respondent and without an opportunity for Respondent to appear, you must state why you believe Petitioner or any Protected Parties will suffer immediate and irreparable injury or damage if you or they have to wait until the hearing.)

**REQUEST FOR IMMEDIATE PROTECTION ORDER
WITHOUT NOTICE TO THE OTHER PARTY**

- I am **not** requesting an immediate Temporary Protection Order.
- In addition to what I have requested in sections 1-10 above, I further request that the Court grant Petitioner and any Protected Parties an immediate Temporary Protection Order restraining Respondent from committing acts of domestic abuse based upon the following sworn statements and beliefs:

The reasons Petitioner and any Protected Parties need this order immediately and cannot wait until the scheduled hearing are: _____

I believe that Petitioner, and/or any Protected Parties will suffer immediate and irreparable injury, loss or damage if not granted an immediate Temporary Protection Order without notifying Respondent and his/her attorney or giving Respondent an opportunity to be heard.

The immediate and irreparable injury, loss or damage that I believe will be suffered is: _____

On this _____ day of _____, _____, I swear or affirm under oath that the information I have provided in this Petition and Affidavit are true and correct to the best of my knowledge. I believe Petitioner and any Protected Parties are entitled to the protection I have requested. I am asking for this protection for valid reasons and am not attempting to harass the person I am seeking protection against and am not attempting to abuse or delay the court process or any other legal action.

Your Signature as Filer Only / Petitioner (*check one*)

Signed and sworn to before me on this _____ day of _____, _____.

Notary Public/Deputy Clerk of Courts
Commission Expires:

(SEAL)