

**DOMESTIC ABUSE
PROTECTION ORDER**

IN THE DISTRICT COURT OF _____ COUNTY, NEBRASKA

Petitioner

VS.

Respondent

**DOMESTIC ABUSE
PROTECTION
ORDER
(ex parte)**

D.O.B.: ____ / ____ / ____

THE COURT, pursuant to Neb. Rev. Stat. §§ 42-924 and 42-925, upon ex parte consideration of the Petition and Affidavit, finds that the petitioner has stated facts showing that the respondent (1) attempted to cause, or intentionally, knowingly, or recklessly caused, bodily injury to the petitioner, or (2) by physical menace, placed the petitioner in fear of imminent bodily injury. **FURTHER**, it reasonably appears from the specific facts included in the affidavit that the petitioner will be in immediate danger of abuse before the matter can be heard on notice. " If checked, the court finds that such facts show that the respondent represents a credible threat to the physical safety of the petitioner (18 USC § 922(g)(8)).

IT IS THEREFORE ORDERED that, unless modified by order of the court, a domestic abuse protection order against the respondent is granted for a period of one year from the date of this order and the petitioner is granted the following relief:

- ____ 1. Respondent is enjoined from imposing any restraint upon the person or liberty of the petitioner.
- ____ 2. Respondent is enjoined from threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner.
- ____ 3. Respondent is enjoined from telephoning, contacting, or otherwise communicating with the petitioner, except _____.
- ____ 4. Respondent is removed and excluded from the residence of the petitioner, regardless of the ownership of the residence, located at: _____
_____.
- ____ 5. The respondent is ordered to stay away from the following location(s): _____

- ____ 6. The petitioner is awarded temporary custody of the following minor children, such temporary custody shall remain in effect until: _____, _____

- ____ 7. _____

" If checked, additional relief may be ordered later pursuant to an Order to Show Cause issued simultaneously with this order. The issuance of the Order to Show Cause does not relieve the respondent of the obligation to request a hearing regarding any relief immediately granted by the above order.

If the respondent wishes to appear and show cause why this order should not remain in effect for a period of one year, he or she shall affix his or her current address, telephone number, and signature on the **Request for Hearing** form provided and return it to the clerk of the district court within five (5) days after service upon him or her. This order shall remain in effect during the time prior to the hearing. Costs are waived unless otherwise ordered by the court.

DATED on: _____, _____

- If checked, the Court Clerk shall:
- Mail a copy of this order to petitioner.
Done on _____, 20____ by _____.
 - Deliver original to sheriff for service/return on respondent.
Done on _____, 20____ by _____.
 - Enter note on trial docket: [date of filing] Upon affidavit, signed "Domestic Abuse Protection Order (ex parte)" entered.
Done on _____, 20____ by _____.

JUDGE

NOTICE TO RESPONDENT

PURSUANT to the Violence Against Women Act of 1994, this order is enforced in all fifty states, the District of Columbia, tribal lands and U.S. territories. Moreover, if no hearing is requested or a final order is entered against you after a hearing of which you had actual knowledge and an opportunity to participate, whether or not you actually participated and if this court order restrains you from harassing, stalking, or threatening an intimate partner or child of such intimate partner, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child, you may be subject to a federal penalty for possessing, transporting, or accepting a firearm or ammunition under the 1994 amendment to the Gun Control Act.

**PROTECTION ORDER
INFORMATION
DOMESTIC ABUSE**

GENERAL INFORMATION

A protection order is a court order issued to provide protection to a victim of domestic abuse, pursuant to Neb. Rev. Stat. § 42-924, et seq. Pursuant to Neb. Rev. Stat. § 42-903, a victim of domestic abuse includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common, and persons related by consanguinity or affinity.

A protection order may prohibit the respondent from imposing any restraint upon the petitioner, or upon the liberty of the petitioner, threatening, assaulting, molesting, attacking or otherwise disturbing the peace of the petitioner, and telephoning, contacting, or otherwise communicating with the petitioner. A protection order may also include a provision which removes and excludes the respondent from the residence of the petitioner, regardless of the ownership of the residence, order the respondent to stay away from any place specified by the court, order other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member, and award the petitioner temporary custody of any minor children for up to 90 days.

Fees to cover costs associated with the filing, issuance, or service of a protection order shall not be charged, except that a court may assess such fees and costs if the court finds that the statements contained in the application were false and that the protection order was sought in bad faith. The court may assess costs against the adverse party at the final hearing.

Once the protection order petition is granted, it may not be withdrawn except upon order of the court. The protection order shall be effective for one year unless otherwise modified by the court.

In order to qualify for a protection order for domestic abuse, the acts of abuse must be those in which the respondent attempted to cause or intentionally, knowingly, or recklessly caused bodily injury, with or without a deadly weapon, or placing, by physical menace, the petitioner or child of the petitioner in fear of imminent bodily injury. In the event the protection order is sought for a minor child, the petition should be filed by the parent, guardian, or next of kin of the minor child.

NOTICE TO RESPONDENT

If there has been an **Ex Parte** Protection Order served upon you and you wish to request a hearing to show cause why the order should not remain in effect, you must request a hearing on the provided "Request for Hearing" form by completing the form and returning it to the clerk of the district court at the address listed at the bottom of the form. You must return the form within five (5) days after you have been served. The court will schedule a hearing within thirty (30) days after reviewing your request and shall notify you and the petitioner of the hearing date. **Ex Parte** means "done for, in behalf of, or on the application of, one party only".

If there is any hearing scheduled and you wish to defend against the claims set forth in the application for a protection order, you must appear at the hearing. You are warned that if you fail to appear, the case will proceed without you and a final order may be entered against you for the relief requested in the petition. You are required to obey the terms of the protection order as soon as it is served upon you.

If you disobey the terms of the protection order issued by a Nebraska court, or a protection order issued in

another state, the District of Columbia, tribal lands and U.S. territories, you will be subject to the following **Nebraska Revised Statutes**.

Violation of a Protection Order: Any person convicted of violating the terms of a protection order after being served shall be guilty of a Class II misdemeanor. Any person convicted of violating a protection order who has a prior conviction for violating the same protection order or violating a protection order granted to the same petitioner shall be guilty of a Class IV felony.* Any person convicted of violating a protection order who has a prior conviction for violating a protection order shall be guilty of a Class I misdemeanor. Neb. Rev. Stat. § 42-924.

Penalties: A Class I misdemeanor is punishable by not more than one year imprisonment, or one thousand dollar fine, or both. A Class II misdemeanor is punishable by not more than six months imprisonment, or one thousand dollar fine, or both. A Class IV felony is punishable by five years imprisonment, or ten thousand dollars fine, or both. Minimum - six months imprisonment. Neb. Rev. Stat. § 28-106 & 28-105.

If a protection order has been issued against you, the following **United States Federal Statutes** apply to the issuance of a valid protection order.

Full Faith and Credit Provision: Pursuant to the Violence Against Women Act of 1994, 18 U.S.C. § 2265, this order is enforceable in all fifty (50) states, the District of Columbia, tribal lands and U.S. territories. The penalties for violation of this order are determined by the existing penalty of the location in which the violation occurred. Nebraska's Domestic Abuse Full Faith and Credit provisions are found in § 42-931.

Firearms Prohibition: Individuals who are the subject of domestic violence protection orders may be prohibited from purchasing, receiving and possessing firearms and ammunition. To qualify, the respondent must have had the opportunity for a hearing, whether or not he or she participated, and must include a finding that the respondent represents a credible threat to the physical safety of the petitioner(s), and the petitioner(s) was in reasonable fear of bodily injury. If a final order is entered against you after a hearing, whether or not you attended, you are prohibited from possessing, transporting, or accepting a firearm or ammunition under the 1994 amendment to the Gun Control Act, 18 U.S.C. § 922(g)(8).

Interstate Domestic Violence: If you travel across state or tribal land with the intent to injure the petitioner and then intentionally commit a crime of violence causing bodily injury to the petitioner, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. § 2261(a)(1). You may also be convicted of committing a federal offense if you cause the petitioner to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a)(2).

Interstate Violation of a Protection Order: If you travel across state or tribal land lines with the intent to violate the final protection order and subsequently violate such order, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. 2261(a)(1). You may also be convicted of committing a federal offense if you cause the plaintiff to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a)(2).

* The 2002 Legislature passed LB 82, "... violating a protection order granted to the same petitioner shall be guilty of a Class IV felony..." Effective July 20, 2002.