

STATE OF NORTH DAKOTA

IN THE DISTRICT COURT

COUNTY OF _____

_____ JUDICIAL DISTRICT

_____,)
)
 Petitioner,)
)
 vs.)
)
 _____,)
)
 Respondent.)

Civil No. _____

TEMPORARY DOMESTIC VIOLENCE PROTECTION ORDER

TO THE RESPONDENT:

Petitioner has requested a protection Order against you. For a period of 30 days from the date of this Order or until this Order is modified or suspended and served upon you, whichever is earlier, you are ordered not to have any direct or indirect contact with the petitioner. You must immediately stop any domestic violence directed at the petitioner. "Domestic violence" includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear or 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.

You may appear on the _____ day of _____, _____, at _____ (a.m.) (p.m.) before this Court and explain why the petitioner's request should not be granted. The hearing will be held in the _____.

This order is effective upon entry, enforceable upon service, and remains in effect for a period of 30 days from the date of this Order or until this Order is modified or superseded and served upon you, whichever is earlier. If you do not appear at the hearing, the Court may enter a Protection Order against you, which may be valid for up to two (2) years. The Order may subject you to any restriction or requirement set out in this Order or authorized by law.

You violate this Order if you:

1. [] Call, write, or visit the petitioner, regardless of where this takes place, or have messages delivered to petitioner, through anyone other than your attorney.

- 2. Enter or come within _____ (feet) (yards) of:
 - Petitioner's home located at *(address optional)* _____
 - Petitioner's place of employment _____
 - Petitioner's day care _____
 - Other _____
- 3. Take or damage any of petitioner's property;
- 4. Have any physical contact with or threaten petitioner.

It is further ordered that:

- 5. Respondent (shall) (shall not) be excluded from the family dwelling
- 6. Petitioner shall have temporary parenting responsibility of the minor child(ren) that the parties have in common.

Parenting Time shall be exercised as follows: _____

- 7. _____ shall accompany (petitioner) (respondent) to
(Name of person or agency)

_____ to retrieve essential property, i.e., toiletries, clothes, and documents of identification.

- 8. Respondent shall surrender to law enforcement serving this order all firearm(s) or other dangerous weapons(s) that the respondent owns or possesses, including the following identified firearm(s) or other dangerous weapons(s): _____

_____ The respondent shall not acquire any other firearm(s) or dangerous weapon(s) while this Order is in effect.

When this Order expires, the appropriate law enforcement agency is authorized to release to the respondent any firearms or other dangerous weapons surrendered under this Order, so long as the respondent is authorized by law to possess the firearm or weapon.

- 9. Other relief is granted as follows:
 - _____
 - _____

Any peace officer may arrest you with or without a warrant and take you into custody if the peace officer has probable cause to believe you have violated this Order. Consent of the petitioner to any contact does not invalidate this Order.

A VIOLATION OF THIS TEMPORARY PROTECTION ORDER GRANTED UNDER N.D.C.C. § 14-07.1, IS A CLASS A MISDEMEANOR AND ALSO CONSTITUTES CONTEMPT OF COURT. A SECOND OR SUBSEQUENT VIOLATION OF A PROTECTION ORDER IS A CLASS C FELONY. A Class A Misdemeanor carries a penalty of up to one (1) year imprisonment and/or fine of Two Thousand Dollars (\$2,000). A Class C Felony carries a penalty of up to five (5) years imprisonment and or a find of Five Thousand Dollars (\$5,000).

Fees for filing this action and service of orders issued in this action are waived under N.D.C.C. § 14-07.1-03(6).

It is further ordered that the clerk of court shall give a copy of this Order to the law enforcement agency that has jurisdiction over the residence of the petitioner.

This Order is made pursuant to N.D.C.C. § 14-07.1. **Federal law requires that this order be given full faith and credit by a Court of any other state or Indian tribe, 18 U.S.C. § 2265.**

CERTIFICATE OF COMPLIANCE

This temporary protection order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. § 2265 (1994). This Court has jurisdiction of the parties and the subject matter; the respondent has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction. This Order is valid and entitled to enforcement in this and all other jurisdictions.

Dated this ____ day of _____, _____.

Judge of the District Court

NOTICE OF ENTRY OF ORDER

Notice is given to the respondent that this Order was entered by the Clerk of Court for _____ County District Court on the ____ day of _____, _____.

I hereby certify that this document is a true and correct copy of the Order as issued by the Court.

Date
Court Stamp

Clerk of Court Signature

NOTICE TO THE RESPONDENT

Pursuant to the Violence Against Women Act of 1994 (VAWA), 18 U.S.C. § 2265, this Order is enforceable in all fifty states, the District of Columbia, Tribal Lands, and U.S. Territories.

If a final Order should be entered against you after the hearing, whether or not you attended, you may be prohibited from possessing, transporting, or accepting a firearm under the 1994 amendment to the Gun Control Act, 18 U.S.C. § 922(g)(8).

Violation of this Order may subject you to the following **federal** charges and the punishment:

If you travel across state or Tribal Land lines 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. § 2261(a)(2).

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 petitioner to cross state or Tribal Land lines for this purpose. 18 U.S.C. § 2261(a)(2).

Section 12.1-17-07.1, N.D.C.C. **Stalking**.

1. As used in this section:
 - a. "Course of conduct" means a pattern of conduct consisting of two or more acts evidencing a continuity of purpose. The term does not include constitutionally protected activity.
 - b. "Immediate family" means a spouse, parent, child, or sibling. The term also includes any other individual who regularly resides in the household or who within the prior six months regularly resided in the household.
 - c. "Stalk" means to engage in an intentional course of conduct directed at a specific person which frightens, intimidates, harasses that person, and that 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.
2. No person may intentionally stalk another person.
3. In any prosecution under this section, it is not a defense that the actor was not given actual notice that the person did not want the actor to contact or follow the person; nor is it a defense that the actor did not intend to frighten, intimidate, or harass the person. An attempt to contact or follow the person after being given actual notice that the person does not want to be contacted or followed is prima facie evidence that the actor intends to stalk that person.
4. In any prosecution under this section, it is a defense that a private investigator licensed under Chapter 43-30 or a peace officer licensed under Chapter 1-63 was acting within the scope of employment.
5. If a person claims to have been engaged in a constitutionally protected activity, the Court shall determine the validity of the claim as a matter of law and, if found valid, shall exclude evidence of the activity.

6. a. **A person who violates this section is guilty of a Class C Felony if:**
 - (1) The person previously has been convicted of violating section 12.1-17-01, 12.1-17-01.1, 12.1-17-02, 12.1-17-04, 12.1-17-05, or 12.1-17-07 or a similar offense in another state, involving the victim of the stalking.
 - (2) **The stalking violates a court order issued under chapter 14-07.1 protecting the victim of the stalking, if the person had notice of the court order; or**
 - (3) The person previously has been convicted of violating this section.
- b. If subdivision (a) does not apply, a person who violates this section is guilty of a Class A Misdemeanor. A Class C Felony is punishable by five (5) years in jail and a fine of Five Thousand Dollars (\$5,000).