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Corrections Department of

24

DOMESTIC
ABUSE
ACT

Corrections
Dept

(ORDER FOR PROTECTION)

25

THE
'HOW TO'
PACKET

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domestic relations

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PREPARED BY:

- JOANN C. NELSON - DEPARTMENT OF CORRECTIONS
ST. PAUL PROGRAMS AND SERVICES FOR BATTERED WOMEN
- AVIVA BREEN - LEGAL SERVICES ADVOCACY PROJECT, ST. PAUL
- BEV BALOS - FORMERLY OF LEGAL ASSISTANCE OF RAMSEY COUNTY

EXPLANATION

1. AN EXPLANATION PREPARED BY THE
DEPARTMENT OF CORRECTIONS
2. AN EXPLANATION PREPARED BY
LEGAL SERVICES ADVOCACY PROJECT

A. Explanation of "Order for Protection" Law

For the past two legislative sessions, representatives from shelters and education groups throughout the state have worked on developing legislation to provide an effective court process for battered women to gain immediate court protection from their abusers.

Bev Balos from Legal Assistance of Ramsey County drafted the much needed legislation. During the 1979 Session of the legislature, the Domestic Abuse Act Minnesota Laws Chapter 214 was passed. While this act covers all victims of domestic abuse, this explanation is written for shelter and advocacy persons working specifically with battered women.

PURPOSE The purpose of this law is to provide a civil remedy for victims of domestic abuse. This remedy is a simple process to obtain court ordered reliefs from the abuser (e.g., a restraining order, limited visitation for children away from her residence, temporary custody and support, etc.).

WHO IS COVERED Married couples, people who live together, family members, adult family or household members can file on behalf of minors (minors cannot file themselves).

WHO IS NOT COVERED Ex-spouses, former boyfriends or girlfriends, current boyfriends or girlfriends who are not living with you.

WHAT RELIEF CAN BE GIVEN This law states that the court can issue an "Order for Protection"; any or all of the following kinds of relief can be included:

1. Obtaining a restraining order to prevent further acts of abuse.
2. Removing the abuser from the residence if shared by both parties (battered woman and abuser).
3. Awarding temporary custody of children.
4. Establishing temporary visitation schedule (if necessary, away from the residence).
5. Establishing temporary support for minor children and/or spouse.
6. Ordering counseling or other social services for the parties if they are married or if there are minor children, even though the children may belong to the woman by a previous marriage.
7. Ordering or directing the sheriff or constable to enforce orders given by the court at the woman's request.
8. Ordering the sheriff or constable to assist in the execution or service of the Order for Protection. The woman must request this of the court otherwise it will not happen.
9. Modification by the court of an existing Order for Protection.
10. She may also apply for temporary Order for Protection if she is in immediate danger. This is called an Ex Parte (see Attachment V), which means the court order for temporary relief is granted upon hearing her side only. The court order is effective immediately upon filing the petition and continuing for up to 14 days, but a full hearing will take place within 7 days and the abusing party will be present.

Violation of this order for protection is a misdemeanor and is punishable by imprisonment up to 90 days or a fine up to \$500, or both. The abuser can also be charged with contempt of court which is punishable usually by a short jail sentence.

HOW TO
FILE

This court process is an easy and simple process for the battered woman in that it does not necessitate the use of 1) a lawyer or 2) the filing of any divorce or legal separation papers.

The simplicity of the forms will vary from county to county; however, the step-by-step process for the woman is essentially the same regardless of county. If the woman has little or no money for the filing fee (which is about \$19.00) or sheriff's service fees (which is approximately \$15.00), she must first fill out the In Forma Pauperis form which comes in three parts: motion, affidavit, and order (see Attachment I). The clerk of court will have the judge sign it immediately upon completion of the papers. This form is the request to waive filing fees and sheriff's service fees and the fee for obtaining a certified copy of the order. She can then proceed with the following.

The woman may obtain the Order for Protection forms (affidavit and petition) from the clerk of court in the Family Court in her area. If the court in her area has not done anything yet, use the sample forms in this booklet. She may either take them home with her to fill out and have notarized or fill them out right there with the help of the clerk of court. Someone there can then notarize them. The completed forms are to be returned to the clerk of court at which time the woman will be given a hearing date. In some counties, a notice of the hearing date may be mailed to her. Then, all that is required is for her to appear at the hearing to tell her story. The judge will also ask questions.

If she is in immediate danger, a woman may fill out an Ex Parte form which means a hearing will take place immediately upon completion of the forms (the abusing party will not be present but will receive notice of the court ordered reliefs granted at that hearing).

The temporary court order will be effective from that time on for a period of up to 14 days, but a full hearing must be held within 7 days. The woman, as well as the abusing party, will then be required to be at the full hearing.

The woman must request the help of the sheriff's office if their services are necessary to evict the abuser from her residence. She must also request that a copy of the order be on file with her local police department; without either request, they will not automatically take place.

THINGS
TO
REMEMBER

The main features to be kept in mind are:

1. The "Order for Protection" law does not require the victim (if married) to file for a dissolution of marriage.
2. It is independent of any other actions pending in court, e.g., divorce, assault charges, child custody, etc.
3. The court is required to give this action priority in scheduling a hearing.

4. The court can take immediate action when victim alleges immediate danger and grant relief to the victim on a temporary basis (14 days) without a full hearing with the abuser.
5. A victim can request:
 - a. A waiver of filing fees if she has little or no money. These forms (called In Forma Pauperis) must be filled out before the other forms (see Attachment I).
 - b. That a local police department get copies of the court order so that if they are called about future incidents, they can check on the existence of a court order. This can be done through a police department verification process as in license checks.
 - c. That the sheriff or constable assist in serving papers evicting an abuser if an order provides that relief.
6. If the abuser admits to assaulting or threatening the woman in this action, it cannot be held against him in any criminal action for the same assault.
7. The woman may go back to court to have the order changed or modified if circumstances change (e.g., if she moves, or if the abusing party becomes abusive toward children during visitation, etc.).
8. The woman must fill out these forms herself but can be accompanied by an advocate to court. Someone else can also file them for her as long as she has filled them out herself and has had them notarized.
9. Security or bond from the battered woman may be required by the court if necessary in exceptional cases. For example, to avoid general harassment of a man, to avoid using this law frivolously, and in those cases where the woman has not shown up for previous hearings regarding the same issue.
10. The woman may request that a copy of the Order for Protection, granted by the court, be forwarded by the clerk of court within 24 hours to the local law enforcement agency in the area of her residence.

**IMPORTANT
HINTS**

- Do not assume that the judge or referee will know the new law well and how it works. The attorney or advocate together with the woman must be prepared and understand what the Order for Protection law is designed to do.
- Judges and referees may be reluctant to order relief for the woman in an Ex Parte hearing (because the order would be based on her testimony alone) so include as many examples of abuse as possible (within reason) on the affidavit.

Each shelter should have all the proper forms available and, also, make provisions for someone within the shelter itself, if possible, or nearby to serve as a notary.

If further clarification of the Order for Protection law is needed, you may call one of the following:

- | | | |
|---------------------|-------------|----------------|
| 1. Aviva Breen | St. Paul | (612) 222-3749 |
| 2. Louise Mack | Willmar | (612) 235-4613 |
| 3. Denise Gamache | Minneapolis | (612) 827-6105 |
| 4. Shirley Oberg | Duluth | (218) 728-3679 |
| 5. Candace DeGrazia | Winona | (507) 454-6660 |

B. Explanation of "Order for Protection" Law

The Order for Protection is a new remedy designed to provide protection for a victim of domestic violence through use of the court system. It is a civil remedy - it does not involve the police, the city attorney's office or any other part of the criminal justice system unless there is a violation. The order may also be known as a restraining order. The law is designed to make it easy for people to ask the court for assistance without the necessity of hiring an attorney.

People who are married, who live together, who are parent and child and who are related by blood are covered. An adult family or household member may petition (ask the court for an order) on behalf of him or herself or on behalf of a minor child (who cannot do it alone).

The court which will handle these petitions is the court that handles family matters. In Hennepin and Ramsey Counties it is the family court. In other counties it is the county court.

When a petition is filed in court, there are filing fees charged by the court. There is another law, however, which provides that when a person cannot afford to pay the costs, he or she will not be required to do so. If a poor person wants to petition for an Order for Protection but cannot afford to pay the filing fee or the fee to have the papers served on the abuser, he or she can also file papers asking the court to disregard the fee requirement. This is called proceeding in forma pauperis.

The law is written to require that the court clerk assist in filing papers for the Order for Protection and in filing to proceed in forma pauperis. Each county may have different forms and different procedures.

Ramsey County has developed a very easy check-off form. The family court clerk assists people and the system is working very well. Some counties have not prepared anything as yet. In that case it is important to know some things about what papers are required and how to prepare them.

THE LAW

(MINNESOTA LAWS CHAPTER 214)

APPENDIX VI

H.F.No. 521
CHAPTER No.

AN ACT

relating to domestic abuse; authorizing judicial intervention to provide protection from domestic abuse; prescribing penalties.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. (518B.01) Subdivision 1. (SHORT TITLE.) This section may be cited as the domestic abuse act.

Subd. 2. (DEFINITIONS.) As used in this section, the following terms shall have the meanings given them:

(a) "Domestic abuse" means: (i) physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault, between family or household members; or (ii) criminal sexual conduct, within the meaning of Minnesota Statutes, Sections 609.342, 609.343, 609.344, or 609.345, committed against a minor family or household member by an adult family or household member;

(b) "Family or household members" means spouses, parents and children, persons related by consanguinity, and persons jointly residing in the same dwelling unit.

Subd. 3. (COURT JURISDICTION.) An application for relief under this section may be filed in the court having jurisdiction over dissolution actions. In a jurisdiction which utilizes referees in dissolution actions, the court or judge may refer actions under this section to a referee to take and report the evidence therein in the same manner and subject to the same limitations as is provided in section 518.13. Actions under this section shall be given docket priorities by the court.

Subd. 4. (ORDER FOR PROTECTION.) There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member on behalf of himself or herself or on behalf of minor family or household members.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief may be made regardless of whether or not there is a pending lawsuit, complaint, petition or other action between the parties.

(d) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section by any person not represented by counsel.

(e) The court shall advise a petitioner under clause (d) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to Minnesota Statutes, Section 563.01 and shall assist with the writing and filing of the motion and affidavit.

Subd. 5. (HEARING ON APPLICATION.) Upon receipt of the petition, the court shall order a hearing which shall be held not later than 14 days from the date of the order. Personal service shall be made upon the respondent not less than five days prior to the hearing. In the event that service cannot be made, the court may set a new date.

Subd. 6. (RELIEF BY THE COURT.) Upon notice and hearing, the court may provide relief as follows:

(a) Restrain any party from committing acts of domestic abuse;

(b) Exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(c) On the same basis as is provided in chapter 518, award temporary custody or establish temporary visitation with regard to minor children of the parties;

(d) On the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse;

(e) Provide counseling or other social services for the parties, if married, or if there are minor children;

(f) Order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff or constable, as provided by this section.

Any relief granted by the order for protection shall be for a fixed period not to exceed one year.

Subd. 7. (TEMPORARY ORDER.) Where an application under this section alleges an immediate and present danger of domestic abuse, the court may grant an ex parte temporary order for protection, pending a full hearing, and granting relief as the court deems proper, including an order:

(a) Restraining any party from committing acts of domestic abuse;

(b) Excluding any party from the dwelling they share or from the residence of the other except by further order of the court.

An ex parte temporary order for protection shall be effective for a fixed period not to exceed 14 days. A full hearing, as provided by this section, shall be set for not later than seven days from the issuance of the temporary order. The respondent shall be served forthwith, a copy of the ex parte order along with a copy of the petition and notice of the date set for the hearing.

Subd. 8. (SERVICE OF ORDER.) Any order issued under this section shall be personally served upon the respondent.

Subd. 9. (ASSISTANCE OF SHERIFF IN SERVICE OR EXECUTION.) When an order is issued under this section upon request of the petitioner, the court shall order the sheriff or constable to accompany the petitioner and assist in placing the petitioner in possession of the dwelling or residence, or otherwise assist in execution or service of the order of protection.

Subd. 10. (RIGHT TO APPLY FOR RELIEF.)

(a) A person's right to apply for relief shall not be affected by his or her leaving the residence or household to avoid abuse.

(b) The court shall not require security or bond of any party unless it deems necessary in exceptional cases.

Subd. 11. (MODIFICATION OF ORDER.) Upon application, notice to all parties, and hearing, the court may modify the terms of an existing order for protection.

Subd. 12. (REAL ESTATE.) Nothing in this section shall affect the title to real estate.

Subd. 13. (COPY TO LAW ENFORCEMENT AGENCY.) Upon the request of the petitioner, any order for protection granted pursuant to this section shall be forwarded by the clerk of court within 24 hours to the local law enforcement agency with jurisdiction over the residence of the applicant.

Each appropriate law enforcement agency shall make available to other law enforcement officers through a system for verification, information as to the existence and status of any order for protection issued pursuant to this section.

Subd. 14. (VIOLATION OF AN ORDER FOR PROTECTION.)

(a) Whenever an order for protection is granted pursuant to this section, and the respondent or person to be restrained knows of the order, violation of the order for protection is a misdemeanor.

(b) A violation of an order for protection shall also constitute contempt of court and be subject to the penalties therefor.

Subd. 15. Any testimony offered by a respondent in a hearing pursuant to this section is inadmissible in a criminal proceeding.

Subd. 16. (OTHER REMEDIES AVAILABLE.) Any proceeding under this section shall be in addition to other civil or criminal remedies.

Sec. 2. This act is effective the day after final enactment and shall apply to all acts of domestic abuse committed on or after that date.

Effective May 26, 1979

DEFINITIONS

DEFINITIONS

1. Petitioner: You. The woman seeking protection or relief by the court.
2. Respondent: the one against whom a complaint is made; the one who is to be restrained; the abusing party.
3. Domestic Abuse: physical harm, bodily injury, assault, or the believable threat of harm, bodily injury, or assault, between family members; or criminal sexual conduct (within the meaning of Minnesota statutes sections 609.342, 609.343, 609.344, or 609.345) committed against a minor family member or household member by an adult member of the family or household. Threatening phone calls are included only if there is reason to believe that action upon those threats may be taken by the abusing party.
4. Who is covered by the law - Family or Household Member: spouse, parents, children, person related by blood or of the same ancestry, and persons jointly residing in the same dwelling unit. It does not include an ex-husband unless the woman is living with him.
5. Dissolution: legal termination of marriage; divorce.
6. Petition: the paper which is filed to begin a court action. It states what the problem is and how the person wants relief.
7. Affidavit: sworn statement in writing.
8. Order: the document the judge signs ordering someone to do what it says.
9. Docket Priority: the action should have priority over others when scheduling court time.
10. Allege: state what happened without proof.
11. In Forma Pauperis: the manner one would file a petition when unable to pay petition fees and sheriff's fees.
12. Personal service: the abusing party (respondent) served with papers by authorized person (sheriff, constable, or adult friend of the petitioner). The papers must be handed to him; they cannot be mailed to him.
13. Relief: court action taken to eliminate abuse or fear of abuse.
14. Ex Parte: one side only heard at the hearing and the decision by the court is made on this alone. Only a temporary Order for Protection is given in an Ex Parte Order.
15. Temporary Order for Protection: order issued by the court granting certain reliefs to be enforced prior to the full hearing which must be held within 7 days.
16. Service of Order: any order issued by the court will be served personally on the abusing party (respondent) by the sheriff, constable, or adult friend of the petitioner.
17. Security or bond: Money that is paid into court by the petitioner to guarantee that the action being taken is in good faith. In regard to this new law it is waived except that it may be required of the woman to avoid general harassment and frivolty (e.g., filing a petition for the third time in a month or failing to appear at previously scheduled hearings).
18. Jurisdiction: the territory within which authority may be exercised.
19. Misdemeanor: criminal offense which is punishable by imprisonment for up to 90 days or a fine up to \$500 or both. Generally not jailed. Depends on the past record of the abuser (respondent) and on the judge at the hearing.
20. Contempt of Court: violation of a court order usually punishable by jail.

Definitions -

21. Restraining Order: a written court order that tells a person that he is prohibited from doing certain things, in this case, from committing acts of domestic abuse (as defined above). Violation of this order involves a contempt of court charge and misdemeanor charge.
22. Court having jurisdiction over dissolution actions: the court which handles termination of marriage, custody disputes, and other family matters.
23. Motion: a motion is a formal request asking the court to take some action.
24. Pro Se: this means you are acting as your own attorney, rather than having an attorney represent you.

ATTACHMENT I

IN FORMA PAUPERIS

1. EXAMPLES OF THREE BLANK FORMS (MOTION, AFFIDAVIT, AND ORDER)
2. EXAMPLES OF THE HENNEPIN COUNTY FORMS (MOTION, AFFIDAVIT, AND ORDER)

IN FORMA PAUPERIS

There are three papers needed to ask that court costs be paid:

Motion to sue in forma pauperis

Affidavit

Order

Motion and Order

Use the samples filling in the correct county, judicial district, names, etc.

Affidavit

You must tell the court what all your assets are, what your income is and what all your debts are so the court knows why you cannot pay the costs yourself. Only use those statements on the Affidavit which are appropriate.

There are several ways to get an IFP:

1. If you go in for an Ex Parte Temporary Order, also bring these three papers with you and ask the judge to sign them at the same time.

or

2. You may take the papers in to any judge you can find and ask to have them signed. Be prepared to answer any questions the judge may ask. There is usually no problem. In counties where there is no legal aid office, the court may be unfamiliar with this procedure.

Go to court with your papers.

Ask who the judge is who hears family court matters.

Ask to see him or her.

Give him the papers.

Ask him to sign the papers.

*In Forma Pauperis is not to be used by everyone filing an Order Protection petition. It is to be used only by those people who cannot afford to pay the sheriff's service costs or the filing fees.

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

In Re the Matter of:

Petitioner,
and
Respondent.

MOTION FOR LEAVE
TO PROCEED
IN FORMA PAUPERIS

hereby moves pursuant to 563.01
Minnesota Statutes, for the entry of an Order, permitting the above-
named petitioner to proceed herein in forma pauperis without pre-
payment of filing fees, costs, service fees and other expenses or
security therefor. Because of poverty, as further set forth in the
attached Affidavit, the above-named petitioner is unable to pay
costs or give security therefor.

STATE OF MINNESOTA

DISTRICT COURT

COUNTY OF

JUDICIAL DISTRICT

In Re the Matter of:

Petitioner,

AFFIDAVIT OF IN FORMA
PAUPERIS

and

Respondent.

STATE OF MINNESOTA)

COUNTY OF)^{SS.}

, being first duly sworn, deposes and

states that:

1. I am the _____ in the above-entitled proceeding and I am entitled to and in good faith intend to _____ a _____ proceeding for dissolution.

2. The claims of such proceeding are true and meritorious.

3. I have no income other than the \$ _____ per month as aid to support my child from the Ramsey County Welfare Department.

4. I own minimal personal property consisting of necessary household goods, furnishings and personal clothing.

5. I own no valuable jewelry, sporting equipment, hobby goods, machinery, stocks, bonds, securities or other personal property of value.

6. I own no real property and have no other assets or resources.

7. I am presently \$ _____ in debt.

8. All of my income and minimal assets are needed to provide for my support and the support of my _____ minor child.

9. Because of poverty, I am unable to pay the costs and expenses of this proceeding or to give security therefor.

WHEREFORE, Affiant presents this Affidavit to obtain waiver of the costs, fees and espenses of this proceeding.

Subscribed and sworn to before me
this _____ day of _____, 197__

NOTARY PUBLIC

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

In Re the Matter of

Petitioner,

and

ORDER

Respondent.

This matter having come before the undersigned Judge on the Motion and Affidavit of petitioner, for leave to proceed herein in forma pauperis, and it appearing to the Court that said petitioner is entitled to the relief requested,

IT IS HEREBY ORDERED THAT:

1. The above-named petitioner is authorized to proceed herein in forma pauperis, without being required to pay filing fees, service fees, costs and other expenses or give security therefor.

2. The Clerk of District Court shall perform the duties of Clerk without requiring petitioner to pay filing fees, costs or other expenses involved in certifying the Order for protection or any other costs.

3. All necessary pleadings in this proceeding shall be served as requested without requiring the payment of any fees or costs incurred; and

4. That if there is a money recovery in this proceeding, the Clerk's filing fees and certification costs and the Sheriff's costs shall be paid.

Dated: _____

JUDGE OF DISTRICT COURT
FAMILY COURT DIVISION

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

IN RE THE MATTER OF:

Petitioner,

and

Respondent.

MOTION FOR PROCEEDING
IN FORMA PAUPERIS

Upon the attached affidavit, petitioner hereby moves the Court for an Order permitting the filing of petitioner's pleadings in the Order for Protection proceeding without prepayment of the fees of the District Court Administrator, and without payment of service fees by the Sheriff of the County in which service may be made.

Petitioner

Address: _____

Telephone number _____

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

IN RE THE MATTER OF:

and

Respondent.

AFFIDAVIT FOR PROCEEDING
IN FORMA PAUPERIS

D.C. Number _____

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) ss.

_____, being first duly sworn on oath, deposes and states that:

1. She is the petitioner in the above-entitled action, which is one for an Order for Protection.
2. There are _____ minor children, who reside with petitioner.
3. She believes that she has a sound and meritorious basis to commence such a proceeding and that she is entitled to redress.
4. Petitioner's sole source of support is _____

_____ which does not permit her to provide more than the basic necessities of life for herself and her family.

5. Petitioner's personal property includes only clothing, household goods and other minimal belongings.

6. Petitioner requests permission to commence an Order for Protection proceeding without being required to pay the usual required filing fee or any other fee due and payable to the District Court Administrator, and without being required to pay any service fees payable to the Sheriff of the County in which service may be made.

Further your affiant saith not.

Subscribed and sworn to before me
this _____ day of _____, 19____.

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

IN RE THE MATTER OF:

Petitioner,

and

Respondent.

ORDER FOR PROCEEDING
IN FORMA PAUPERIS

D.C. Number _____

Petitioner has moved this Court for an Order permitting the commencement of a proceeding for an Order for Protection without payment of the usual and accustomed fees.

Upon the motion and affidavit submitted by the petitioner herein, and upon the authority of M.S. 518B.01 Subd. 4(e) and M.S. 563.01, it is hereby ORDERED:

1. That the District Court Administrator file petitioner's pleadings in the above-captioned proceeding, and provide one certified copy of Court Orders and Judgment and Decrees without prepayment by petitioner of any of the usual and accustomed fees.
2. That the Sheriff of the County in which service may be made effect personal service of the pleadings, Court Orders and Judgments and Decrees herein without payment of any of his usual fees.

BY THE COURT:

JUDGE OF DISTRICT COURT

Dated: _____

ATTACHMENT II

THE PETITION

1. EXPLANATION OF PETITION
2. EXAMPLE OF A BLANK PETITION
3. EXAMPLE OF A RAMSEY COUNTY PETITION
4. EXAMPLE OF A ST. LOUIS COUNTY PETITION
5. EXAMPLE OF A HENNEPIN COUNTY PETITION

PETITION

1. Be sure to fill in the heading.
2. Put in the correct number for the judicial district. If you don't know, call the clerk of court and ask.
3. If you live outside of Hennepin and Ramsey Counties, write County Court instead of District Court.
4. Put your name before the word petition and the abuser's name before the word "respondent."
5. The petition can be
 - a. on your behalf (you are the victim);
 - b. on behalf of a minor child or children;
 - c. on behalf of you and the children.Fill in the names after the words "on behalf of."

6. After the words "as follows" list what you want the court order. Number each item.

You can ask the court to order any or all of the following:

- a. restrain the respondent from committing acts of domestic abuse;
 - b. exclude the respondent from the dwelling (the court can order the abusing person out of the place you share or your residence);
 - c. establish temporary custody of the minor children;
 - d. establish temporary visitation with regard to minor children;
 - e. establish temporary support;
(For 3, 4 or 5 the court will only order these if there is a legal duty to support. So the court may order custody and visitation for children only if the children are his - and will only order support if the children are his and/or if you if you are his spouse.)
 - f. provide counseling or other social services. The court will only order this if the parties are married or there are minor children. If you ask for counseling for the abuser, the court may also order counseling for you.
 - g. Provide assistance from the sheriff in obtaining possession of the dwelling and in otherwise executing the order. This means the court would order the sheriff to accompany you to get the abuser out of the house, serve the papers, etc.
 - h. Forward a copy of the order to the local law enforcement agency. This is so the police have a way of knowing that the order exists.
 - i. The court can order other relief in its discretion so you can ask for other relief that you might want that is reasonable and necessary. If you are in a special situation that requires something other than is listed above, put it here.
7. Sign your name at the bottom.
 8. The check-off form is only being used in Ramsey County as of August 1979 and may not be well received by other courts.

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

vs. Petitioner,

PETITION FOR
ORDER FOR PROTECTION

Respondent.

The above-named petitioner alleges the existence of domestic abuse and therefore petitions for relief on behalf of _____ as follows:

And any further relief as the court deems necessary for protection.

Petitioner

In Re Matter of

Petitioner,

and



PETITION FOR:
ORDER FOR PROTECTION
EX PARTE TEMPORARY
ORDER FOR PROTECTION

Respondent.

TO: The above-named Respondent, _____.

The above-named Petitioner petitions the Court on behalf of

_____, who is:

- also the petitioner and lives in the same dwelling unit as respondent;
- related to the petitioner as _____, and lives in the same dwelling unit as the petitioner and the respondent.
(State how related)
- not related to the petitioner but lives in the same dwelling unit as the petitioner and the respondent.

This petition is made because the respondent has committed acts of domestic abuse (as defined in Minnesota Statutes, Section 518B.01) against _____.

Such acts include but are not limited to:

- a. Physical harm, bodily injury, assault and/or the infliction of fear that one or more of these acts will be committed imminently;
- b. Criminal sexual conduct against a minor family or household member.

There (is)(is not) a pending lawsuit, complaint, petition or other action between the parties.

The facts and circumstances as set forth in the Affidavit of petitioner attached hereto and made a part hereof are appropriate ones for the Court to issue an Order for Protection, including the relief asked for below:

Petitioner asks for the following relief:

- a. For an Order for Protection pursuant to M.S.A. § 518B.01, providing that:

Example of a completed petition used by the battered woman to request that certain reliefs from the abuser be granted by the court. Some possible requests for relief are listed below.

STATE OF MINNESOTA

COUNTY OF ST. LOUIS

COUNTY COURT

FAMILY DIVISION

Jane Doe,

Petitioner,

vs.

PETITION FOR ORDER
FOR PROTECTION

Tom Doe,

Respondent.

The above-named petitioner alleges the existence of domestic abuse and therefore petitions for the relief on behalf of herself and Sam Doe, age 8 and Bill Doe, age 7, as follows:

1. For an order restraining respondent from inflicting physical harm, bodily injury, assault, or the infliction of fear of imminent physical harm, bodily injury or assault.

2. Restraining respondent from annoying, molesting, or interfering with petitioner in any manner whatsoever, either in person or by telephone.

3. Giving petitioner exclusive temporary possession of the house.

4. Giving petitioner temporary custody of the minor children, subject to visitation by respondent each Sunday from 9:00 a.m. to 6:00 p.m. away from the home.

5. Giving respondent exclusive use of 1978 Chevrolet.

6. Giving petitioner support of \$ _____ per month or reasonable amount as the court sees fit.

7. And any further relief as the court deems necessary for protection.

8. Any other relief as described in the explanation (see attached).

Petitioner

(2)

Petitioner requests that a copy of the Order for Protection be forwarded to the appropriate law enforcement agency with jurisdiction over the residence of petitioner. (If the petitioner does not request this action it will not automatically occur).

Petitioner, Jane Doe

STATE OF MINNESOTA
COUNTY OF HENNEPIN
IN THE MATTER OF:

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

Petitioner,

and

Respondent.

PETITION FOR ORDER FOR
PROTECTION AND FOR EX PARTE
TEMPORARY ORDER FOR
PROTECTION

DC Number _____

Petitioner alleges that she is in immediate and present danger of domestic abuse as more fully set forth in the attached Affidavit and therefore respectfully petitions for relief on behalf of herself and her minor child(ren) _____

_____ pursuant to M.S.A. 5510B.01 as follows:

1. For an Order for Protection restraining and enjoining respondent from committing any acts of domestic abuse against petitioner or the minor child(ren).

2. For an Order for Protection excluding the respondent from the residence of petitioner and the minor child(ren).

3. For an Order for Protection restraining respondent from appearing at the residence of the petitioner and minor child(ren) subject to the right of visitation in the respondent with the minor child(ren) of the parties.

4. For an Order for Protection granting petitioner the temporary care, custody and control of the minor child(ren) of the parties, subject to the right of visitation in the respondent.

5. For an Order for Protection requiring respondent to pay to petitioner or other appropriate persons or agencies a reasonable sum of monies as and for the temporary support of the _____ minor child(ren) of the parties.

6. For an Order for Protection directing the Hennepin County Dept. of Court Services to provide appropriate counseling or other social services to the parties.

7. For an ex parte Temporary Order for Protection.

8. For an Order for Protection directing the Sheriff of Hennepin County to assist in service and execution of any such ex parte Temporary Order for Protection or Order for Protection (and shall assist petitioner in regaining occupancy of the home pursuant to Paragraph 2 herein).

9. For an Order for Protection requiring the District Court Administrator to send a copy of any ex parte Temporary Order for Protection or Order for Protection to the _____ Police Department, pursuant to M.S.A. §518B.01(13), 1979 Session Laws, Chapter 214.

10. For such other and further relief as the Court may deem just and equitable.

PETITIONER, PRO SE

(address)

(telephone number)

ATTACHMENT III

AFFIDAVIT

1. EXPLANATION OF AFFIDAVIT
2. EXAMPLE OF A BLANK AFFIDAVIT
3. EXAMPLE OF A RAMSEY COUNTY AFFIDAVIT
4. EXAMPLE OF A COMPLETED AFFIDAVIT USED IN
ST. LOUIS COUNTY
5. EXAMPLE OF A HENNEPIN COUNTY AFFIDAVIT

AFFIDAVIT

Fill out heading again, same as others. Be sure to put your name in above Petitioner and the abuser's name above Respondent.

Fill in the county where the affidavit is made, like this -

STATE OF MINNESOTA)
) ss.
COUNTY OF

An affidavit is a sworn statement of what happened. It must be very specific. Fill in your name in the first blank. Then begin stating the information in short sentences as shown. Number them for ease of following. Give as much detail as possible so the judge can understand why you are asking for the order; be specific; give dates, times, places; if possible, tell it in chronological order. If there is a history of abuse, give some of it, but too much past history may not be helpful. You must use your judgment. Be as accurate as you can.

Sign the affidavit at the end in front of a notary. Have it notarized! You must sign it in front of the notary.

Make at least two copies of all the papers. The original is the one you give to the clerk of court to file. One copy is for you and one is for the respondent.

Take the papers to the court that handles divorces. Tell the court you want to file the papers for an order for protection. If the court has set up a special procedure, you will be told.

If there are none, tell the clerk that the hearing must be scheduled within fourteen days (Minnesota Statutes Chapter 518B). The clerk should be able to tell you what you must do to schedule a hearing date if the clerk is not the one who does it.

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

Petitioner,

vs.

AFFIDAVIT

Respondent.

STATE OF MINNESOTA)
) ss.
COUNTY OF)

_____, being first duly sworn, deposes
and states as follows:

1. My name is _____. I live at
_____.

2. The respondent's name is _____.
His/her address is _____.

Further affiant sayeth not save that this affidavit is made in
support of the accompanying petition.

Signed and sworn to before me
this _____ day of _____, 197__.

NOTARY

In Re Matter of

Petitioner,

and

AFFIDAVIT

Respondent.

STATE OF MINNESOTA)
COUNTY OF RAMSEY) ss.

_____ being duly sworn on oath deposes

and says:

1. (She)(he) is the petitioner in the above-entitled action.
2. (She)(he) (is)(is not) married to the above-named respondent.
3. (She)(he) lives in the same dwelling unit as respondent at _____
4. There (are)(are not) minor children living in the same household who (are)(are not) children of the parties.
5. That respondent (has)(has not) inflicted physical harm and bodily injury upon _____ in that (he)(she) did _____
6. That respondent, an adult, has committed acts of Criminal Sexual Conduct against one or more of the minor children living in the household, in that respondent _____
7. (Other facts in support of the allegation of acts of domestic abuse committed by respondent are _____
8. That as a result of such acts of domestic abuse by the respondent, medical attention to _____ was required.
9. That petitioner is fearful of the immediate and present danger of further domestic abuse.

Petitioner

Subscribed and sworn to before
me this ___ day of _____, 1979.

Notary Public/Clerk of Court

(2)

Further affiant sayeth not, save that this affidavit is made
in support of the accompanying petition.

Jane Doe

Suscribed and sworn to before me
this _____ day of _____, 19____.

STATE OF MINNESOTA
COUNTY OF HENNEPIN
IN THE MATTER OF:

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

_____,
Petitioner,

and

AFFIDAVIT OF PETITIONER

DC Number _____

_____,
Respondent.

STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

_____, being first duly sworn on oath,
does depose and say:

1. That she is the petitioner in the above-mentioned action which is an application for Protective Order and for ex parte relief pursuant to M.S.A. §518B.01(7) and that she makes this Affidavit in support of her Petition.

2. That your affiant is (not) married to the respondent.

3. That your affiant and respondent (did) reside together with the minor child(ren), in the same dwelling unit (until on or about _____.)

4. That there is/are _____ minor child(ren) of the parties who reside with the petitioner; the names and dates of birth are as follows: _____

5. That on or about _____, your affiant (with the minor child(ren)) left the residence of the parties after the respondent had physically assaulted her (the minor child(ren)).

6. That respondent has inflicted physical harm on the petitioner (and/or (minor child _____) in the (s)he did on or about (describe events): _____

STATE OF MINNESOTA
COUNTY OF HENNEPIN
IN THE MATTER OF:

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

_____,
Petitioner,

and

AFFIDAVIT OF PETITIONER

DC Number _____

_____,
Respondent.

STATE OF MINNESOTA }
COUNTY OF HENNEPIN } ss.

_____, being first duly sworn on oath,
does depose and say:

1. That she is the petitioner in the above-mentioned action which is an application for Protective Order and for ex parte relief pursuant to M.S.A. §518B.01(7) and that she makes this Affidavit in support of her Petition.
2. That your affiant is (not) married to the respondent.
3. That your affiant and respondent (did) reside together with the minor child(ren), in the same dwelling unit (until on or about _____.)
4. That there is/are _____ minor child(ren) of the parties who reside with the petitioner; the names and dates of birth are as follows: _____

5. That on or about _____, your affiant (with the minor child(ren)) left the residence of the parties after the respondent had physically assaulted her (the minor child(ren)).
6. That respondent has inflicted physical harm on the petitioner (and/or (minor child _____) in the (s)he did on or about (describe events): _____

7. That as a result of such acts of domestic abuse above described, (petitioner) (the minor child(ren) _____) have required medical attention.

8. Other facts in support of allegations of acts of domestic abuse (or acts of criminal sexual conduct) committed by respondent are: _____

9. That petitioner fears that she (and her minor child(ren)) are in imminent danger of further acts of domestic abuse.

Further your affiant saith not.

PETITIONER

Subscribed and sworn to before me

this _____ day of _____, 19____.

Notary Public

ATTACHMENT IV

THE ORDER

1. EXPLANATION
2. BLANK EXAMPLE OF AN ORDER
3. EXAMPLE OF A HENNEPIN COUNTY ORDER

ORDER

Be sure to fill in heading again. Be sure it is the same as the petition heading. This is the paper the judge signs. It should list what you want the judge to order. It will say the same things that are asked for in the petition, but, the judge may change the order. That is, he may not give you everything you ask for.

The following is a list of what is possible to put in the order. Number each item.

Put after: IT IS HEREBY ORDERED THAT:

1. The respondent be restrained from committing acts of domestic abuse.
2. The respondent is excluded from _____
(address)
3. The respondent shall pay temporary support in the amount of \$ _____ (can leave blank and decide in court).
4. The respondent is permitted to visit his minor children _____ (list names) on the following basis:
you can list some limits, like - only when sober, at a specific place, under supervision, etc.
5. The petitioner shall have custody of the minor children _____ (list names) subject to the right of reasonable visitation as ordered above. Only put the clause starting "subject to" if there is a visitation provision.
6. The sheriff shall accompany the petitioner and assist in placing petitioner in possession of the dwelling.
7. You will also list here anything else you have asked for in the petition that you want the judge to order.

Do not sign. This is for the judge to sign.

After the clerk signs the papers, ask the clerk to conform the The clerk will put the judge's signature on them. Then the respondent must be served with a copy of the order, but must be shown the original with the judge's signature. You can pay the sheriff to do it or you can get someone over 18 to do it (a friend).

STATE OF MINNESOTA
COUNTY OF HENNEPIN
IN THE MATTER OF:

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

_____,
Petitioner,
and

ORDER FOR PROTECTION
DC Number _____

_____,
Respondent.

The above-entitled matter came on for hearing before _____
_____, Referee of Family Court, on _____.
_____, petitioner, appeared pro se;
respondent appeared _____.

Based on the Petition, Affidavit, all the files, records and proceedings herein and further evidence adduced:

IT IS ORDERED:

1. That the respondent is hereby restrained and enjoined from committing any acts of domestic abuse, including annoying, molesting, causing bodily harm, injury or assault, or causing imminent fear of physical harm, injury or assault, or interfering with the personal liberty of the petitioner or her minor child(ren), namely: _____.

2. That the respondent hereby is excluded from the residence of the petitioner and her minor child(ren), _____.

3. That respondent hereby is restrained and enjoined from appearing at the residence of the petitioner and minor child(ren) except in the exercise of his rights of visitation with the minor child(ren) of the parties, which shall be:

4. That petitioner shall have the temporary care, custody and control of the minor child(ren) of the parties, whose names and birth dates are as follows:

subject to rights of visitation set forth in paragraph 3.

5. That as and for temporary child support respondent shall pay to petitioner the sum of \$ _____ per week, payable through Hennepin County Support & Collections Services, commencing _____ until further Order by this Court.

6. That the Hennepin County Dept. of Court Services shall provide (visitation) (marriage) counseling for the parties.

7. That the Hennepin County Sheriff or the _____ Police Dept. is hereby empowered, authorized and directed to enforce this Order for Protection, pursuant to the Domestic Abuse Act, M.S.A. §513B.01, 1979 Session Laws, Chapter 214.

8. That the Hennepin County Sheriff shall assist the petitioner in execution and/or service of this Order (and shall assist petitioner in regaining occupancy of the home pursuant to paragraph 2 of this Order).

9. That the District Court Administrator shall send a copy of this Order for Protection to the _____ Police Dept. pursuant to M.S.A. §518B.01(13).

10. That personal service of this Order for Protection on the respondent is not required as respondent was present at the making of this Order; that service of this Order may be made by United States mail.

11. That the provisions of this Order shall remain in full force and effect for a period of one (1) year from the date of the entry herein, pursuant to M.S.A. §518B.01, Subd.6(f).

12. VIOLATION OF THIS ORDER IS A MISDEMEANOR AND SHALL CONSTITUTE CONTEMPT OF COURT AND MAY RESULT IN IMPRISONMENT OF UP TO NINETY (90) DAYS.

Order Approved as of Date Heard:

REFEREE

JUDGE

Dated: _____

ATTACHMENT V

EX PARTE TEMPORARY ORDER

1. EXPLANATION
2. BLANK EXAMPLE OF AN EX PARTE ORDER
3. EXAMPLE OF A HENNEPIN COUNTY PETITION FOR
EX PARTE TEMPORARY ORDER FOR PROTECTION
4. EXAMPLE OF A HENNEPIN COUNTY EX PARTE ORDER

EX PARTE TEMPORARY ORDER

The Ex Parte Order can be requested when an emergency exists. Because the court is making a decision after hearing only one side, the judge must be convinced that you are in immediate and present danger. It is anticipated that this type of order will be difficult to get unless you present it as such. Petition for Ex Parte Temporary Order - you can only ask for four kinds of relief (help) from the court:

1. Restrain the respondent from committing acts of domestic abuse.
2. Exclude the respondent from the dwelling.
3. Assist in execution of the order and in taking possession of the dwelling.
4. Forward a copy of the order to the local law enforcement agency.

See other affidavit instructions.

STATE OF MINNESOTA
COUNTY OF

DISTRICT COURT
JUDICIAL DISTRICT

Petitioner,

vs.

TEMPORARY ORDER
FOR PROTECTION

Respondent.

Based upon the petition, affidavit and all proceedings herein,
the Court makes the following order:

It is hereby ordered that:

A hearing shall be held on _____
(Include only if hearing is desired.)

Pursuant to the Domestic Abuse Act (M.S.A. §518B.01) the Police Department
_____ is empowered and authorized to
enforce this order.

VIOLATION OF THIS ORDER MAY RESULT IN IMPRISONMENT OF UP TO NINETY (90)
DAYS.

Judge of District Court

Dated _____

STATE OF MINNESOTA
COUNTY OF HENNEPIN
IN THE MATTER OF:

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

Petitioner,

and

Respondent.

PETITION FOR ORDER FOR
PROTECTION AND FOR EX PARTE
TEMPORARY ORDER FOR
PROTECTION

DC Number _____

Petitioner alleges that she is in immediate and present danger of domestic abuse as more fully set forth in the attached Affidavit and therefore respectfully petitions for relief on behalf of herself and her minor child(ren) _____

_____ ,
pursuant to M.S.A. 5510B.01 as follows:

1. For an Order for Protection restraining and enjoining respondent from committing any acts of domestic abuse against petitioner or the minor child(ren).

2. For an Order for Protection excluding the respondent from the residence of petitioner and the minor child(ren).

3. For an Order for Protection restraining respondent from appearing at the residence of the petitioner and minor child(ren) subject to the right of visitation in the respondent with the minor child(ren) of the parties.

4. For an Order for Protection granting petitioner the temporary care, custody and control of the minor child(ren) of the parties, subject to the right of visitation in the respondent.

5. For an Order for Protection requiring respondent to pay to petitioner or other appropriate persons or agencies a reasonable sum of monies as and for the temporary support of the _____ minor child(ren) of the parties.

6. For an Order for Protection directing the Hennepin County Dept. of Court Services to provide appropriate counseling or other social services to the parties.

7. For an ex parte Temporary Order for Protection.

8. For an Order for Protection directing the Sheriff of Hennepin County to assist in service and execution of any such ex parte Temporary Order for Protection or Order for Protection (and shall assist petitioner in regaining occupancy of the home pursuant to Paragraph 2 herein).

9. For an Order for Protection requiring the District Court Administrator to send a copy of any ex parte Temporary Order for Protection or Order for Protection to the _____ Police Department, pursuant to M.S.A. §518B.01(13), 1979 Session Laws, Chapter 214.

10. For such other and further relief as the Court may deem just and equitable.

PETITIONER, PRO SE

(address)

(telephone number)

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT
FAMILY COURT DIVISION

IN THE MATTER OF:

_____,
Petitioner,
and
_____,
Respondent.

ORDER TO SHOW CAUSE AND
EX PARTE TEMPORARY ORDER
FOR PROTECTION

D.C. Number _____

TO: _____, THE ABOVE NAMED RESPONDENT:

Upon the Petition for an Order for Protection and the Affidavit attached thereto and upon all of the records and proceedings herein;

YOU ARE HEREBY ORDERED to personally appear and show cause, before the above-named Court in the Courts Tower, Room _____, Hennepin County Government Center, Minneapolis, Minnesota, on the _____ day of _____, 19____, at _____M. before _____, why the relief sought by petitioner in the Petition for Order for Protection should not be granted.

PENDING SAID HEARING:

1. You are hereby restrained and enjoined from committing any acts of domestic abuse, including causing physical harm, bodily injury, assault or infliction of fear that one or more of these acts will be committed imminently against petitioner or any of the minor child(ren).

2. You are hereby excluded from the residence of the petitioner and minor child(ren) and to forthwith remove yourself from the residence.

3. Further, that an exigency exists and the 5-day notice requirement is hereby waived.

Pursuant to the Domestic Abuse Act (M.S.A. § 518B.01, 1979 Session Law Chapter 214) the _____ Police Department or the Hennepin County Sheriff is empowered, authorized and directed to enforce this Order.

VIOLATION OF THIS ORDER MAY RESULT IN IMPRISONMENT OF UP TO NINETY(90) DAYS.

JUDGE OF DISTRICT COURT

Dated: _____

