

**INSTRUCTIONS – TEMPORARY ORDER OF PROTECTION  
(Please read carefully)**

Purpose

The purpose of an Order of Protection is to promote the safety and protection of all victims of partner and family member assault, victims of sexual assault, and victims of stalking.

**Do you qualify for an Order of Protection?**

**If you do not fit any of the qualifications listed below, YOU DO NOT QUALIFY for an Order of Protection under Montana law and your petition will be denied.**

**You are eligible for an Order of Protection if you are reasonable apprehensive of bodily injury by your partner or family member, or if you are a victim of the following offenses by your partner or family member: assault, partner assault, aggravated assault, intimidation, criminal or negligent endangerment, assault on a minor, assault with a weapon, arson, unlawful restraint, kidnapping and aggravated kidnapping.**

**You are eligible for an Order of Protection, regardless of your relationship with the offender, if you are a victim of aggravated assault, assault, stalking, incest, sexual assault, or sexual intercourse without consent or if you are seeking to protect the victim of an assault on a minor. It does not matter when the abusive incident happened, as long as you are in danger of harm now. There is no requirement that the incident was reported to law enforcement.**

How do you get an Order of Protection? You may apply for a Temporary Order of Protection by filing a sworn petition in Court. Orders of Protection may be filed in Justice Court, Municipal Court, or District Court. If you answer YES to any of the following questions, **you will need to file your petition in District Court?**

- Has a divorce been filed? If a divorce has been filed in District Court, your petition for an Order of Protection should be filed in District Court. You may request an Order of Protection in Justice Court **only if** the judge handling your divorce or custody case is unavailable, or, to escape abuse, you left the county where the abuse happened. A copy of the relevant District Court documents must be given to the Court when the petition is filed.
- Has a child custody action or a parenting plan been filed in District Court? Justice Court **does not have jurisdiction to determine child custody issues**. Matters involving child custody or visitation must be brought before the District Court.
- Is there a Youth In Need of Care action in District Court? If there is a YINC action in District, the petition must be filed in district Court.
- Is the Respondent in Montana? Justice Court does not have jurisdiction outside the state of Montana. If the Respondent is not in Montana, you must file your petition in District Court.

May I file for an Order of Protection on behalf of another person? You may only apply for an Order of Protection on your own behalf or on behalf of a minor child. You may not file on behalf of another adult.

**If you fail to state adequate grounds in the written application your request for an Order of Protection will be denied.**

### What does the Court do?

If the judge finds that you are in danger of harm, without immediate action, the Court will issue a Temporary Order of Protection ordering the offender to stay away from you, in addition to other possible protection. When you file the petition, **you will be given a time to call the Court to be notified if your request for an Order of Protection has been granted or denied.** You may be given an appointment to meet with the Judge to provide more information or clarification of the information provided. If your request is denied, you will need to pick up a copy of the order from the clerk. The Court will not mail the order.

**If your request is granted, you must pick up your copy of the Temporary Order of Protection from Justice Court immediately, which will provide you the date of the hearing. The Court will not mail the order.**

### At the Hearing

A hearing will be held within 20 days from the date the Court issues a Temporary Order of Protection. At the hearing, the Court will determine if good cause exists for the Temporary Order of Protection to be continued. If that finding is made, the judge will issue an Order of Protection. **YOU MUST APPEAR AT THE HEARING.** Failure to appear will result in the Order of Protection being dismissed and quashed. If you have witnesses that you want to testify, you must bring them with you to the hearing. The Court will not accept written statements at the hearing.

An attorney is not necessary to pursue an Order of Protection in a Justice Court. However, if you feel you need an attorney, YOU HAVE THE LEGAL RIGHT TO OBTAIN AN ATTORNEY at any time during the proceedings. If you do not understand the forms or the instructions, please contact an attorney to assist you.

**Please call the Justice Court Civil Department at 454-6870 after \_\_\_\_\_ am/pm to check the status of your application.**

**You will need to pick up your copy of the order, whether granted or denied, from the clerk. The Court will not mail the order.**

Name \_\_\_\_\_  
 Phone \_\_\_\_\_

IN THE JUSTICE COURT OF RECORD  
 CITY OF GREAT FALLS, COUNTY OF CASCADE, STATE OF MONTANA  
 BEFORE THE JUSTICE OF THE PEACE

	)		3/2010
	)	Cause No. _____	
	)		
Petitioner	)		
vs.	)	<b>SWORN PETITION FOR TEMPORARY</b>	
	)	<b>ORDER OF PROTECTION</b>	
	)	<b>AND REQUEST FOR HEARING</b>	
	)		
Respondent.	)		

**Montana law requires that the Respondent be given a copy of this completed form and all attachments.**

1. Under oath and as provided by MCA § 40-15-201, I request that the Court issue a Temporary Order of Protection against respondent. I believe I am in danger of harm, if the Court does not issue a Temporary Order of Protection immediately.
2. I am seeking an Order of Protection for *(check all that apply)*:
  - Myself
  - The following minor child/ren

Child/ren	Age	How is child related to You                      Respondent	Who does child live with?

3. Residence: *(check all that apply)*

- I live in Cascade County.
- Respondent lives in Cascade County.
- The abuse or offense happened in Cascade County.
- The Respondent does not live with me
- I live with the Respondent at \_\_\_\_\_
- I have left the residence I lived with Respondent. I want to return:
  - To live at the residence
  - To get personal belongings
  - Other *(describe)*: \_\_\_\_\_

4. Relationship between you (or person you seek to protect) and Respondent:

- I am married to Respondent.
- I am married to Respondent but we are separated
- I am divorced from Respondent.
- I live with Respondent
- I used to live with Respondent.
- I dated respondent, or had an ongoing intimate relationship with Respondent. (*You must complete Question 5 describing the relationship*)
- I have a child or children with Respondent.
- I am a family member or former family member of Respondent. (Child; stepchild; adopted child; parent; stepparent; brother; sister; stepbrother or stepsister; in-law):*(specify relationship)* \_\_\_\_\_
- None of the above (*You must complete Question 6 regarding the incident that causes you to seek an order of protection.*)

5. Dating relationships **ONLY**:

Nature of relationship with Respondent: \_\_\_\_\_

Length of relationship with Respondent: \_\_\_\_\_

How often did you see Respondent during the relationship: \_\_\_\_\_

When did the relationship end: \_\_\_\_\_

6. If you checked *None of the Above* on Question 4 how do you know Respondent:

\_\_\_\_\_

Were you (or the person you seek to protect) the victim of any the following offense by respondent?

stalking

assault

sexual assault

sexual intercourse without consent

incest

aggravated assault

assault on a minor

7. Information about the abuse or offense:

Date of most recent incident: \_\_\_\_\_

Who was there: \_\_\_\_\_

Where did it happen? \_\_\_\_\_

What did the Respondent do or say that made you afraid? \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Describe any injuries: \_\_\_\_\_

\_\_\_\_\_

Did the Respondent threaten you with a weapon:

\_\_\_\_ Yes      What kind of weapon: \_\_\_\_\_

\_\_\_\_ No

Did law enforcement come:      \_\_\_\_ Yes      \_\_\_\_ No

8. DESCRIPTION OF PAST ABUSE: Explain when the abuse happened, where it happened, if you were injured, who was there. Explain why you are afraid now:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



witnesses to the offense or other victims of the offense): \_\_\_\_\_  
\_\_\_\_\_

3.  Respondent must not telephone, contact, or otherwise communicate, directly or indirectly, with me and/or the following people (may include any family member, including children, witnesses to the offense or other victims of the offense): \_\_\_\_\_  
\_\_\_\_\_

4.  Respondent must not take the following child(ren) out of this county:  
\_\_\_\_\_

5.  Respondent must stay \_\_\_\_ feet (*up to 1,500 ft*) away from:

me

my residence at \_\_\_\_\_ (if you want the location of your home to be secret DO NOT LIST)

my school or workplace at \_\_\_\_\_

The child/ren's school or child care: \_\_\_\_\_

Other place (*describe*): \_\_\_\_\_

6.  Respondent used or threatened me with a firearm. Respondent must not possess or use that firearm.

7.  Respondent must not transfer, encumber, conceal, or otherwise dispose of my property or jointly owned property, except as provided below (must be limited to transfers in the usual course of business or for necessities of life). Respondent must inform the court, which will in turn notify the petitioner, of any proposed extraordinary expenditures made after this order is issued.  
\_\_\_\_\_

8.  Respondent must transfer possession or use of the following items to me: \_\_\_\_\_

9.  I need a peace officer to come with me to pick up the property listed in #8 or I request that a peace officer come with Respondent when picking up his/her property or belongings.

10.  The Court should order Respondent to complete violence counseling which may

include alcohol or chemical dependency counseling or treatment, if appropriate.

11.  The court should order the following to provide for my safety and welfare and my family's safety and welfare: \_\_\_\_\_

12. Parenting of the Child/ren

Note: Justice Courts can protect minor children by listing them on an Order of Protection. Although Justice Court can provide short term visitation plans, it cannot make parenting plans. **If you need a parenting plan, you must file an action in the District Court.**

*(Choose one)*

Parenting of children does not apply in this case

The protections I have asked for will keep Respondent away from the children. Therefore a visitation schedule is unnecessary.

I want the children listed in Appendix A to have parenting time with Respondent. I am attaching Appendix A that says what visitation schedule I want.

**HEARING**

Please set a hearing on this case within 20 days, as required by MCA § 40-15-202. The respondent will then have a chance to be heard and explain why the Order of Protection should not be issued. I request that the Court issue an Order of Protection with the above listed protection after the hearing, and any other protection for me as the Court deems just and proper.

\_\_\_\_\_  
Petitioner

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Justice Court Civil Clerk

**OR**

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(Notary Seal)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_, Montana  
My commission expires \_\_\_\_\_.



### APPENDIX A

In this form, you will tell the Judge how the temporary visitation will take place under safe and peaceful conditions. You must have a very good reason before the Judge will deny the Respondent visitation. This visitation schedule must be temporary. Justice Court does not have jurisdiction to enter parenting plans. You must file a parenting action in District Court as soon as possible.

Child/ren	Age	How is child related to You	Respondent	Who does child live with?

Check the visitation option that you want:

I request the following visitation schedule:

---

---

---

---

---

Supervised visitation (*List why you want supervised visits and who will supervise*):

---

---

---

---

Neutral drop off and pick up location: \_\_\_\_\_

Transportation provided by: \_\_\_\_\_

I request the Respondent have no visitation with the children because:

---

---

---

---

# For Court Use Only

**Identifying Characteristics of Petitioner and other protected persons (minor children who reside with petitioner). *Adults must file a petition on their own behalf.***

Petitioner \_\_\_\_\_

Address: \_\_\_\_\_

Does Respondent know that you live at this address  Yes  No

SS # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DOB \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: Male / Female

Race \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color \_\_\_\_\_ Eye Color \_\_\_\_\_ Phone Number \_\_\_\_\_

**Other Protected Person(s):**

Name \_\_\_\_\_

SS # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DOB \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: Male / Female

Race \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color \_\_\_\_\_ Eye Color \_\_\_\_\_

Relationship to Petitioner: \_\_\_\_\_

Name \_\_\_\_\_

SS # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DOB \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: Male / Female

Race \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color \_\_\_\_\_ Eye Color \_\_\_\_\_

Relationship to Petitioner: \_\_\_\_\_

Name \_\_\_\_\_

SS # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DOB \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: Male / Female

Race \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color \_\_\_\_\_ Eye Color \_\_\_\_\_

Relationship to Petitioner: \_\_\_\_\_

Name \_\_\_\_\_

SS # \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ DOB \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Sex: Male / Female

Race \_\_\_\_\_ Height \_\_\_\_\_ Weight \_\_\_\_\_

Hair Color \_\_\_\_\_ Eye Color \_\_\_\_\_

Relationship to Petitioner: \_\_\_\_\_