

## FLATHEAD COUNTY JUSTICE COURT

Justice Center  
920 South Main Street  
Kalispell, Montana. 59901  
406-758-5649

### APPLYING FOR AN ORDER OF PROTECTION

*(Read This Entire Informational Brochure Prior To Preparing Your Petition)*

You are requesting the court issue a Temporary Order of Protection. The information below will help you understand Orders of Protection and help you determine if your circumstances justify your request. If you proceed with the Petition it is important that you provide detailed information so that the judge can determine whether you qualify. It is also important that you complete all sections of the Petition which apply to your circumstances so that the court, and the involved law enforcement agency, have the information needed to act on your request.

**! The Purpose of Orders of Protection:** Orders of Protection are issued to promote the safety and protection of the victims of family member or partner assault, victims of sexual assault, and the victims of other specific crimes. It also applies to persons who are suffering from substantial emotional distress, or reasonable apprehension of bodily injury, as a result of being subjected to repeated harassment, intimidation or another form of stalking.

**! The Basis For The Issuance Of A Temporary Order Of Protection:** The judge reviewing your request may only issuance a Temporary Order of Protection under certain circumstances. Without first hearing from the other party the court may only issue a Temporary Order of Protection when the judge reading your Petition concludes that the circumstances require immediate action because you or a member of your immediate family are in danger of harm, or you are suffering substantial emotional distress as a result of repeated stalking.

**! You Must Be A Partner Or A Family Member Or The Victim Of A Specific Crime:** The law provides that only people in certain relationships, or victims of certain crimes, qualify for the issuance of an Order of Protection. You must be an intimate partner or a present or past family member of the other party, or the victim of a designated crime. Family member includes in-laws, siblings, step children and their parents.

**! Preparing Your Petition:** The document used to request a Temporary Order of Protection is called a Petition. It is nothing more than your sworn written statement of the facts and circumstances upon which you are relying. It is extremely important that the petition be complete and detailed as it is the only information the judge will review in determining if a Temporary Order of Protection will be issued. The Petition is your story and it must be accurate and complete so that the judge can properly determine whether the court must act without first holding a hearing.

**! Preparing Your Petition:** As you prepare your Petition remember it will be read by the judge and may be acted on by many local, state, and federal law enforcement agencies. None of these people can do there job if you do not provide complete information. Here are some guidelines to follow:

Y Provide full names for anyone named in the Petition;

Y Include full street addresses for any place described including work and schools;

- Y Provide specific dates and locations for incidents you describe;
- Y Describe the relationship between you and any other person you name;
- Y Provide the full name and age of any child you name;
- Y Write clearly and read your Petition to make sure it makes sense;
- Y Fully describe incidents of physical violence, abuse, and intimidation.

**! What Happens Once You File A Petition?** Once you file the Petition it will be reviewed by the judge as soon as possible. In the meantime you must take steps to protect yourself and any one else you believe is in danger. **PROVIDE THE COURT WITH A TELEPHONE NUMBER WHERE YOU CAN BE CALLED ONCE THE ORDER HAS BEEN ISSUED OR DENIED.** Once the Temporary Order of Protection is issued it will be taken to the Sheriff=s Department to be served on the responding party. It is very important to submit accurate information to ensure prompt service of the temporary order on the other party. The Sheriff cannot serve someone he can=t find.

If the judge does not issue the Temporary Order you may come to the court and pick up your Petition which will have attached to it a form indicating why the order was not issued. Should your circumstances change you may submit a new Petition for consideration. In some cases the court will issue an order which requires both parties to appear in court for a hearing to determine whether an Order of Protection should be issued.

**! Do I Have Legal Grounds For The Court To Issue A Temporary Order of Protection?**

Remember, the purpose of the law authorizing Temporary Orders of Protection is to promote the safety of the victims of certain crimes who are presently in danger of harm, or are suffering substantial emotional distress as a result of stalking. In the absence of information from which the judge can reasonably one or both of these exist there are no grounds for issuance of an order without first having a hearing. Even if the court does not issue a Temporary Order of Protection you may request a hearing in order to present evidence supporting the issuance of an Order of Protection.

Temporary Orders of Protection are authorized and based upon immediate need and the presence of danger. They are not intended to apply to other circumstances which, while very stressful and upsetting, do not present a substantial danger of harm to you or someone else seeking protection.

**Temporary Orders of Protection do not apply to:**

- Y circumstances where a divorce is going to filed and the order is needed simply to move one party from the home until you can obtain the services of a lawyer. A breakup is always stressful but may not be grounds for a Temporary Order of Protection;
- Y custody disputes where the safety of a child is not at risk;
- Y the breakup of a relationship where the primary issue is the division of personal property;

**IF AT ANY TIME YOU OR SOMEONE ELSE IS IN DANGER CONTACT 911 AND TAKE STEPS TO PROTECT YOURSELF UNTIL HELP ARRIVES.**

For Further Assistance You May Contact The Violence Free Crisis Line (752-7273)  
Or The Crime Victim Advocate (758-5630) at the Flathead County Attorney's Office.

**IN THE JUSTICE COURT  
FLATHEAD COUNTY, MONTANA**

_____	)	Docket No. CV- _____ - _____ -OP
_____	)	
_____	)	
Petitioner(s),	)	
v.	)	<b>PETITION FOR TEMPORARY ORDER OF PROTECTION AND REQUEST FOR HEARING</b>
_____	)	
_____	)	
Respondent.	)	

**Under oath and as provided by Montana law, Mont. Code Ann. 40-15-201, I request that the court issue a Temporary Order of Protection against the respondent. I am a victim of either partner/family member assault, a crime of violence, a crime involving nonconsensual sexual contact, or stalking. I believe I am in danger of harm, or have reasonable apprehension of bodily injury, or that the stalking has caused me substantial emotional distress. I believe I am in danger and request that the court act without advance notice to the other party**

**CHECK AND FILL OUT ALL THE SPACES BELOW WHICH APPLY TO YOU.**

**Residency:**

\_\_\_\_\_ I live in \_\_\_\_\_ City, \_\_\_\_\_ County, Montana.

\_\_\_\_\_ Respondent lives in \_\_\_\_\_ City, \_\_\_\_\_ County, Montana.

\_\_\_\_\_ The offense happened in \_\_\_\_\_ City \_\_\_\_\_ County, Montana.

**Relationship:**

\_\_\_\_\_ I am married to respondent.

\_\_\_\_\_ I am divorced from respondent.

\_\_\_\_\_ I live with respondent or I used to live with respondent.

\_\_\_\_\_ I dated respondent, or had an ongoing intimate relationship with respondent, or had a child with respondent. (It does not matter if the relationship is over or has been over for awhile.)

\_\_\_\_\_ I am a family member or former family member of respondent. (child, stepchild, adopted child, parent, stepparent, brother, sister, stepbrother or stepsister, in-law). Describe relationship: \_\_\_\_\_.

**No Relationship Required:**

\_\_\_\_\_ I have been the victim of the following offense by respondent:

- \_\_\_\_\_ stalking    \_\_\_\_\_ incest    \_\_\_\_\_ assault
- \_\_\_\_\_ sexual assault    \_\_\_\_\_ sexual intercourse without consent

**Children:**

\_\_\_\_\_ The respondent and I are the parents of the following child(ren):

Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_

Address of residence: \_\_\_\_\_

\_\_\_\_\_ The following children are not respondent's but live with me.

Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_

Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_

Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_

Name: \_\_\_\_\_ Birthdate: \_\_\_\_\_

**DETAILED DESCRIPTION OF THE BASIS FOR YOUR REQUEST:**

On the sheets which follow explain why you are afraid or what happened that was harmful or threatening. Please describe in detail what the respondent did. Include dates and places where the incident(s) occurred. List witnesses. If respondent was charged with a criminal offense, describe it. It does not matter when the abuse occurred, as long as you are in danger of harm now. There is no requirement that it was reported to the police or sheriff. Provide sufficient detail so that it may be determined if you are in immediate danger. **Do not write on the back side of these sheets- attach more sheets if needed.**

**(Stalking Only: If the Petition is based on stalking, the respondent must have intimidated, harassed, threatened, or followed you more than once.)**





**PETITIONER REQUESTS THAT THIS COURT ISSUE A TEMPORARY ORDER OF PROTECTION IMMEDIATELY TO INCLUDE THE FOLLOWING:**

(Check and fill out all of the sections that are appropriate to you.)

\_\_\_\_\_ 1. Respondent must not threaten to commit or commit acts of violence against me and these family members: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 2. Respondent must not harass, annoy, or disturb my peace or do any of those things to the following people (may include any family member, including children, witness(es) to the offense or other victim(s) 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, witness(es) to the offense or other victim(s) of the offense):  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ 4. Respondent must stay 1500 feet or other appropriate distance (\_\_\_\_\_ feet) away from my residence at \_\_\_\_\_  
my school or workplace at \_\_\_\_\_  
and other place at \_\_\_\_\_.

\_\_\_\_\_ 5. Respondent must not take, transfer to others, hide, sell, damage or dispose of our/my property.

\_\_\_\_\_ 6. Respondent must give possession or use of the following items to me:  
\_\_\_\_\_  
\_\_\_\_\_

(Items may include the residence, an automobile and other **essential** personal property, regardless of ownership.)

\_\_\_\_\_ 7. I need a peace officer to come with me to pick up the property listed in #6.

\_\_\_\_\_ 8. My current location is a secret. I want my location to remain confidential.

**-OR-**

\_\_\_\_ 9. Respondent must stay away from my residence at \_\_\_\_\_  
\_\_\_\_\_

**(Regardless of ownership)**

\_\_\_\_ 10. Respondent must not take the following child(ren) out of this county:  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ 11. Respondent used or threatened me with a firearm or other weapon. Respondent must not possess or use that firearm or weapon.

\_\_\_\_ 12. The court should order the following to provide for my safety and welfare and my family's safety and welfare: \_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_ 13. Respondent is described as follows:  
Date of Birth: \_\_\_\_\_  
Weight: \_\_\_\_\_ Height: \_\_\_\_\_  
Color of Hair: \_\_\_\_\_ Color of Eyes: \_\_\_\_\_  
Other Physical Description/Distinguishing Characteristics:  
\_\_\_\_\_  
Address: \_\_\_\_\_  
Employer Name/Address: \_\_\_\_\_  
Telephone numbers Respondent may be contacted at: \_\_\_\_\_  
\_\_\_\_ 14. Respondent may be located at: \_\_\_\_\_

**HEARING:**

**Please set a hearing on this case within 20 days, as required by Mont. Code Ann. 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.**

**OTHER RELIEF I AM RREQUESTING:**

**The court should order other protection for me as it deems just and proper.**

**PETITIONER'S SIGNATURE, NOTARY SEAL, OR JUDGE'S SIGNATURE**

State of Montana    )  
                                  ) ss.  
County of Flathead )

\_\_\_\_\_, the petitioner, after having been sworn, states as follows:

That I have read the above petition, know the contents, and that the statements are true of my own knowledge, except those stated upon information and belief, and I believe those to be true.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Petitioner

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge

\_\_\_\_\_  
Clerk of Justice Court or

Notary Public For The State of Montana  
Residing At \_\_\_\_\_  
My Commission Expires \_\_\_\_\_

## SERVICE INFORMATION

*It is important that you provide complete and detailed information to assist law enforcement in locating the Respondent and ensuring prompt service of the court's order and contacting you if necessary.*

<b>1. Respondent Information: Full Name:</b>			
Home Address:			
Home Phone Number:		Cell Phone Number:	
<b>2. Place of Employment:</b>			
Work Address:			
Work Phone:		Hours of Employment:	
<b>3. Identifying Characteristics And Data:</b>			<b>Social Security #</b>
DOB:	Gender:	Race:	Height:
Color of hair:		Color of eyes:	
Other unusual physical characteristics (e.g., Tattoos, mustache or scars):			
<b>4. Known Vehicle Description:</b>			<b>License Plate No.</b>
<b>5. Other Locations (include times) Where Respondent Might Be found:</b>			
<b>6. Persons Who Might Know Where The Respondent Can Be Found:</b>			
Name:		Address:	
Phone Number:			
Name:		Address:	
Phone Number:			
<b>7. List Any Of Respondent's Previous Violent Behavior:</b>			
<b>8. List Any Weapons/Firearms The Respondent May Have In Possession:</b>			
<b>9. Describe Any Previous History of Violent Behavior With Law Enforcement Officers In Montana Or Elsewhere:</b>			
<b>Petitioner Information:</b>			
Your Full Name:		Relationship To Respondent:	
DOB:		Social Security #:	
Address:		Home or Contact Phone:	
Other Information:			