



Application for Temporary
Order of Protection

Please

Read this information before completing any paperwork

DO NOT FILE AN APPLICATION WITH JUSTICE COURT

IF you have a divorce or parenting plan action pending between you and the person you are filing against; the application should be filed in District Court.

IF the person you are filing against does not live in the State; Justice Court does not have jurisdiction outside Montana, so the application must be filed in District Court.

ELIGIBILITY REQUIREMENTS AS ESTABLISHED BY STATE LAW

You must be a family member or intimate partner of the offender, and you must be a victim of assault, aggravated assault, intimidation, criminal or negligent endangerment, assault on a minor, assault with a weapon, unlawful restraint, kidnapping, aggravated kidnapping, arson; or

If you are not related to the offender or an intimate partner of the offender, you must then be a victim of assault, stalking, incest, sexual assault, or sexual intercourse without consent.

THE PARTIES

PETITIONER: Please print your complete name on the documents. Only one Petitioner may file an application, however, you may list a spouse or minor child(ren) in the protective provisions of the Petition and Temporary Order.

PLEASE DO NOT INCLUDE adult children, parents, grandparents, aunts and uncles, sisters and brothers, roommates, or neighbors under any of the “other protected persons” provisions. If they feel the need for protection, they must complete their own applications.

RESPONDENT: Please print the Respondent’s complete name on the documents. Only one Respondent can be named on an application. If there are other people you wish to file against, separate applications must be filed against each one.

ALL THREE FORMS MUST BE COMPLETED

Please print legibly

There are three forms that you need to fill out, and some of it may seem repetitious, so please take your time in completing this information.

Petition for Temporary Order of Protection: You are the Petitioner and the person you are filing against is the Respondent. Please provide your complete name and the complete name of the Respondent. Complete all the appropriate information and check the provisions that apply to your situation. The Petition must be signed before a Court clerk or Notary Public and a photo ID will be required.

Temporary Order of Protection: Please complete the first half of page 1 and provisions 1-12.

Law Enforcement Service Information: **It is imperative that you complete all of the information requested in this form.** You must provide a physical address where the Respondent can be located for service. If you do not have an address but know the location, you can draw a map. The Sheriff's Office will not attempt service on a Respondent unless they are provided with a specific location, such as a home or work address.

THE HEARING

If the application is approved, a hearing will be scheduled within 20 days. Please call the Court prior to the hearing to confirm that the Respondent has been served and that the hearing is still on the calendar. If service has not been accomplished, the hearing will have to be rescheduled.

When signed by a Judge, a Temporary Order of Protection is effective immediately; however, it cannot be enforced until the Respondent has been served and has knowledge of the Order. Keep a copy of the Order with you at all times. If minor children are named in the Order, you should provide a copy to the day care provider or school.

At the hearing, you will need to explain why you are asking for an Order of Protection. You may be represented by an attorney, as well as bring witnesses to the hearing who have knowledge about the facts stated in your Petition. Evidence can be presented as well.

RESOURCES

- SAFE can provide assistance in the completion of application forms. The office is located off Fairgrounds Road at 150 Morning Star Way in Hamilton. The phone number is 363-4600
- If you feel in immediate danger at any time, call 911

Please check all that apply:

- The Respondent does not live with me
- I live with the Respondent at _____
- I have left a residence where I lived with the Respondent. I want to return:
 - to live at that residence
 - to get personal belongings
 - other _____
- A business is run from the residence
 - Type of business _____
 - The business is run by me Respondent both me and Respondent

4. **Relationship.** Please check all that apply to the relationship between you or other persons for whom you are seeking protection and the Respondent.

I or the person I want protected have/has a relationship with Respondent as follows:

- Married
- We were married but are now separated
- Divorced
- Currently dating or have an ongoing intimate relationship
- Live together
- Lived together in the past
- Have a child or children together
- Family member or former family member of Respondent
- Dated or had an ongoing intimate relationship in the past

If you have a dating relationship, please describe:

- Length of time you have been dating _____
- How often you saw each other _____
- Time since the relationship ended _____

Victim of sexual assault, stalking, other (please describe)

I am the parent, guardian or other person supervising the welfare of a child less than 16 years of age and request that the Respondent, who is a person over 18 years of age and who has no legal right of supervision or control over the child, to stop contacting the child because I believe that the contact is not in the child's best interests pursuant to MCA 45-5-622(4).

5. **Information about the violence.** Please explain what the Respondent did to you (and/or the person you want protected). Please be specific. Write down places and dates as well as you can remember. It does not matter when the abuse happened or whether you reported it to the police. You must explain why you are afraid now.

A. **RECENT ABUSE**

Date of the most recent abuse _____

Who was there _____

Where did it take place _____

What did the Respondent do or say that made you (and/or the person you want protected) afraid _____

Did the Respondent use or threaten to use a gun or other weapon _____

If yes, describe how _____

Describe any injuries _____

Did the police come _____

B. **ABUSE.** Explain what the Respondent has done to you and be as specific as possible. Explain what happened in past situations, when the abuse occurred, where it happened, and who was there. Explain why you are afraid now.

6. **Firearms**

To the best of your knowledge does the Respondent currently possess firearms _____
Where are the firearms located _____

7. **Other Court Cases.** Check all that apply.

_____ Divorce, legal separation, or custody case between me (and/or the person I want Protected) and the Respondent has been filed in _____ County in the State of _____. Is this case still pending ____yes ____no. Did the Court issue a parenting plan ____yes ____no.

_____ A criminal charge of _____ was filed against me or the Respondent in _____ County in the State of _____.

_____ Other cases involving you (and/or the person you want protected) or Respondent are as follows _____

I ask the Court to order the following:

1. _____ Respondent shall not commit or threaten to commit acts of violence against me (and/or the person I want protected) and the following people [you may include a spouse and minor children]: _____

2. _____ Respondent shall not harass, annoy, disturb the peace of, telephone, email, contact or otherwise communicate, directly or indirectly, with me (or the person I want want protected) and the following people: _____

3. _____ Respondent shall not take the following children out of ___Ravalli ___Missoula County, State of Montana _____

4. _____ Respondent shall stay at least 1500 feet or _____ feet from me and
_____ minor children _____
_____ other people _____
_____ my home at _____
_____ my workplace at _____
_____ children's school/day care _____
_____ other places _____

5. _____ Respondent used or threatened me with firearms/weapons. Respondent shall not possess them [describe] _____

6. _____ Respondent shall not take, hide, sell, damage, or dispose of property belonging to me (and/or the person who I want protected), the Respondent, or both of us.
7. _____ Respondent shall give me (or the person I want protected) possession or use of the following items (may include a residence, automobile, or other essential personal property no matter who owns it) _____

8. _____ I (and/or the person I want protected) need a peace officer to help get possession of the property listed in item 7 **OR** I request that a peace officer come with the Respondent when he/she picks up personal property and belongings.
9. _____ The Court should order the Respondent to complete violence counseling, which may include alcohol or chemical dependency counseling or treatment, if appropriate.
10. _____ The Court should order the following additional relief to provide for the safety and welfare of me and/or the person I want protected _____

11. _____ Parenting of child/children.

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

_____ Parenting of children does not apply in this case

_____ The protection asked for in this application will keep Respondent away from the children; therefore, a visitation schedule is not necessary.

_____ I want the children listed in the attached Appendix A to have parenting time with the Respondent as indicated therein [please complete the attached Appendix A].

12. Other relief: the Court should order other protection as it deems just and proper.

I swear under oath that I have read this application or have had it read to me, and the facts stated in this application are true and correct to the best of my knowledge. I also understand that providing false information is a crime.

Dated _____

Petitioner's Signature

STATE OF MONTANA)
 :SS
COUNTY OF RAVALLI)

Suscribed and sworn to before me on _____

Notary Public for the State or Montana
Residing at _____
My Commission Expires_____

SEAL

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. The visitation schedule will be temporary. For permanent parenting arrangements, you must file an action with your local District or Tribal Court.

Parenting schedules generally include:

- Visits that take place on a regular basis;
- Visits that vary in length depending on the ages and needs of the children.

Children (*List all children, whether or not you have asked that they be protected by the Order of Protection*):

Children	Age	How child is related to You	Respondent	Who does child live with?	State(s) where child lived in the last 6 months?

CHECK the visitation option that you want.

I request the following visitation schedule:

Supervised visits (*List why, and supervised by whom*):

Neutral drop off and pick up location: _____

Transportation provided by: _____

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

Temporary Order of Protection

- Temporary Ex Parte Order and Notice of Hearing
- Amended Temporary Order and Notice of Hearing

Case: _____

Court: _____

County: _____ **State of Montana**

Before the Honorable: _____

Petitioner /Protected Person

First Middle Last

- And / Or on behalf of family members (Protected Person/s)
(List name / year of birth / sex)

Petitioner/Protected Person Identifiers

Year of Birth of Petitioner

- Other protected Person/s
(List Name/ Year of birth/ Sex)

Petitioner's/Protected Person's Relationship to Respondent:

- Married
- Were married, but are now separated or divorced
- Are currently dating or having an ongoing intimate relationship
- Live together
- Lived together in the past
- Has a child / children together
- Is a family member or a former family member of Respondent
- Dated or had an ongoing intimate relationship in the past
- Victim of sexual assault / stalking / assault / other:

Respondent

First Middle Last

Respondent's Address:

Respondent Identifiers:

Sex	Race	Year of Birth	HT	WT
Eyes	Hair	Distinguishing Features		
Driver's License State				

CAUTION: WEAPON ALLEGED TO BE INVOLVED

The court has jurisdiction over the parties and subject matter.

The terms of this Order shall be effective until:

at 11:59 P.M. /unless terminated earlier by another Court Order.

WARNINGS: This Order shall be enforced, even without registration, by the courts of any state, the District of Columbia, any U.S. Territory, and may be enforced on Tribal Lands (18 U.S.C. Section 2265). Crossing state, territorial, or tribal boundaries to violate this Order may result in federal imprisonment (18 U.S.C. Section 2262). Federal law provides penalties for possessing, transporting, shipping, or receiving any firearm or ammunition (18 U.S.C. Section 922(g)(8)(9)).

Violation of this Order may be a criminal offense under applicable Federal or Tribal law and is a criminal offense under Mont. Code Ann. § 45-5-220 or § 45-5-626 and may carry penalties of up to \$10,000 in fines and up to a 5 year jail sentence. It is a misdemeanor under Montana Code Annotated [45-5-220](#) and/or [45-5-626](#) for the Respondent, even if invited and after notice of this Order, to violate the provisions of this Order. Further, under Montana Code Annotated §§ 45-2-301 and 302(3), it is a crime for any person to aid and abet a crime, or, not being present, to advise and encourage a crime. Under Montana Code Annotated § 45-2-303, any person who counsels, aids, solicits or incites another to commit a misdemeanor is guilty of a misdemeanor. Therefore, it may be a crime for any person to encourage or invite contact between the Respondent and the Petitioner, except such contact as is expressly permitted by the above Order.

FINDINGS

THE COURT FINDS from the Petition that the Petitioner and/or Protected Persons is/are in danger of harm. This Court acts without notice or upon hearing to the Respondent because harm may result to the Petitioner and/or Protected Persons if the Temporary Order of Protection is not issued immediately.

THE COURT ORDERS:

1. Respondent shall not threaten to commit or commit acts of violence against Petitioner and/or the following Protected Persons: _____ (PCO 01)

2. Respondent shall not harass, annoy, disturb the peace of, telephone, email, contact, or otherwise communicate, directly or indirectly, with Petitioner and/or the following Protected Persons: _____ (PCO 05)

3. Respondent shall not take the following child(ren) out of this County or State:

4. Respondent shall stay at least _____ feet from:
 Petitioner
 Minor child/ren: _____
 Other people: _____
 Petitioner's and/or Protected Person's residence at: _____
 Petitioner's and/or Protected Person's job or workplace at: _____
Petitioner's and/or Protected Person's vehicle at: _____
 The child/ren's school and/or child care: _____
 Other places (*describe*): _____

_____ (PCO 04)

5. Respondent shall not possess the following firearms: _____ (PCO 07)

6. Respondent shall not take, hide, sell, damage or dispose of the following property:

7. Respondent shall give Petitioner and/or the Protected Person's possession or use of the following items (items may include the residence, automobile and other essential personal property no matter who owns it:

8. Law enforcement shall:
 Remove the Respondent from the residence at: _____
The time for removal shall be at the peace officer's discretion, but no later than _____ hours after service of this Order.
 Place the Protected Person in possession of the residence at: _____
 Supervise the removal of Protected Person's property (listed in Number 7)
 Respondent's items needed for employment and necessary personal effects (at the peace officer's discretion) from the residence.

9. The following is also ordered to provide for the safety and welfare of Petitioner and/or the Protected Persons: _____

10. There are other civil or criminal actions pending involving the petitioner and/or respondent as follows (List Court and Type of Case):

There are no other pending actions.

11. **Conflicting Orders.** If any term of another Order conflicts with any term of this Order you must follow the more restrictive term.

12. **Change in Address.** The parties shall keep the Court informed of their current mailing addresses.

13. **Other Relief**

Respondent shall NOT have contact with the child/ren until further Order of the Court.

Supervised visitation is necessary:

Supervised by: _____

Neutral drop off/pick up location: _____

Child/ren to be transported by: _____

Temporary visitation shall be awarded as follows: _____

This visitation schedule shall be in effect until _____, 20____.
(Month / Day / Year)

The parties are encouraged to file an action in the appropriate District or Tribal Court for permanent parenting arrangements.

Neither party shall remove the child/ren from _____ County.

Other relief: _____

HEARING

14. A hearing on this Temporary Order, including whether it should be made into a Permanent Order of Protection for a specific time or effective permanently, will be held before this Court on (Date): _____ or as soon thereafter as the matter may be heard, in the courtroom at (Address): _____

This Temporary Order of Protection shall continue in full force and effect until.

DATE: _____

NOTICE:

Petitioner: If you do not appear at the hearing, the petition shall be dismissed. You should immediately report any violation of this Order to law enforcement. You also have the right to return to court to report any violation of this Order.

Respondent: If you fail to appear for the hearing, the judge will make a decision about the Order of Protection in your absence. A longer protection may be issued against you. This decision could affect your ability to own or possess firearms.

15. **Order to Clerk.** It is further ordered that the clerk of the court shall forward a copy of this Order to the appropriate law enforcement agency for immediate service upon Respondent; and the clerk shall deliver or mail a copy of this Order to the Petitioner

WARNING

Violation of this Order may be a criminal offense under applicable Federal or Tribal law and is a criminal offense under Mont. Code Ann. § 45-5-220 or § 45-5-626 and may carry penalties of up to \$10,000 in fines and up to a 5 year jail sentence. This Order is issued by the Court and the Respondent is forbidden to do any act listed in the Order, even if invited by the Petitioner or another person. It may be a crime for any other person to encourage or invite contact between the Petitioner and the Respondent, unless such contact is expressly permitted by this Order. This Order may be amended only by further Order of this Court or another court that assumes jurisdiction over this matter.

The Sheriff is hereby directed to serve, without cost to Petitioner, a copy of this Temporary Order of Protection together with a copy of Petitioner's Petition upon Respondent and to file a return of service with the clerk of this court. This service will be as soon as possible and before the date of the hearing. Upon receipt of proof of this Order, the clerk is hereby directed to mail or otherwise promptly deliver a copy of this Order, together with a copy of the proof of service, to the following law enforcement agencies:

Date: _____

Signed: _____

Judge

I have received a copy of this Order. I understand I am required to notify the court of my current mailing address and telephone number as future notices will be delivered to me by mail.

Date: _____

Signed: _____

Petitioner

I have received a copy of this Order. I understand I am required to notify the court of my current mailing address and telephone number as future notices will be delivered to me by mail.

Date: _____

Signed: _____

Respondent

ATTENTION: KEEP A COPY OF THIS ORDER IN YOUR POSSESSION AT ALL TIMES IN ORDER TO ASSIST PEACE OFFICERS. IMMEDIATELY REPORT ANY VIOLATION OF THIS ORDER TO LAW ENFORCEMENT.

SHERIFF'S RETURN

I served this Temporary Order of Protection on the Respondent by delivering a copy to
him/her at (address): _____,
on _____, 20__ at _____ a.m./p.m.

Dated this _____ day of _____, 20__.

Sheriff

LAW ENFORCEMENT SERVICE INFORMATION

Confidential

Please provide as much information as you can. **YOU MUST FILL IN ALL THE SHADED AREAS.** If you do not, law enforcement will not serve your order and the form will be returned to the court clerk.

You (Remember you **MUST** fill in all the shaded areas):

Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:
Home Phone No.:		Message Phone No.:		
Work Name and Address:			Phone No.:	
Name of Relative or Friend Not Living With You:			Phone No.:	

Other Persons You Wish Protection For: (Please use additional page, if needed)

Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:
Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:
Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:
Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:

The Person Against Whom You Are Seeking the Order:

Last Name:		First:		Middle Initial:
Date of Birth:	Race:	Male [] Female []	Social Security No.:	
Home Address:		City:	State:	Zip:
Home Phone No.:		Message Phone No.:		
Height:	Weight:	Hair Color:	Eye Color:	
Describe any tattoos or scars:				
Employer:		Phone No.:	Work Days/Hours:	
Address:		City:	State:	Zip:
Name of Relative or Friend:			Phone No.:	
Make & Model of Car:			Year:	Color:
License Plate No.:		State:		

Additional Important Information:

Has this person been convicted of a crime? YES [] NO [] Don't Know []	If YES, What?
Does this person have any weapons? YES [] NO [] Don't Know []	
Do you consider this person dangerous? YES [] NO []	
Places this person may be found:	

Include written directions or a map if a street address is not available. Without sufficient address information, service of the order may be delayed or may not be possible.

Please use this space for any additional information (i.e. Additional Protected Family Members)