

INSTRUCTIONS FOR COMPLETING PETITION FOR PROTECTION FROM STALKING OR SEXUAL ASSAULT

The Protection from Stalking Act (La. R.S. 46:2171 et seq.) and the Protection for Victims of Sexual Assault Act (La. R.S. 46:2181 et seq.) enable victims of stalking or sexual assault by a stranger or acquaintance to ask for court orders to protect them from further stalking or sexual assault.

NOTE: If the person committing stalking or sexual assault is related to the victim as a family or household member, the victim can file a petition for protection under the Domestic Abuse Assistance Act (La. R.S. 46:2131 et seq.) to seek more expansive relief. If the victim is or was dating the person committing stalking or sexual assault, the victim may file under the Protection from Dating Violence Act (La. R.S. 46:2151) to seek more expansive relief.

The **petition** is the form that begins the process. The petition is an application, or a request to the court for protection from the person committing stalking or sexual assault. The petition describes the stalking or sexual assault, and lists the kinds of protection the victim is seeking from the court. The person who files a petition for protection is called the **petitioner**; the person against whom the petition is filed (the person committing stalking or sexual assault) is called the **defendant**. The **protected person** is usually the petitioner, but not always. For instance, if a parent or guardian files for protection of a minor, the parent or guardian is the petitioner and the minor is the protected person. The petitioner can fill out and file the petition without using an attorney. The necessary forms are available in the clerk of court's office in each parish.

You do not have to pre-pay the court costs in order to file. If the protective order is granted, the judge should hold the person committing stalking or sexual assault responsible for the court costs.

These instructions can help you understand which forms to use, and how to fill them out. In some areas of the state, the clerk of court's office or the local sexual assault or battered women's program may be able to assist you in filling out the forms.

Who may apply for protection under the Protection from Stalking Act or the Protection for Victims of Sexual Assault Act?

Protective orders are available to protect people who have experienced stalking or sexual assault by an acquaintance or stranger. You can apply for protection for yourself, or you can apply on behalf of minor children. You can file on behalf of an **incompetent** (also called an **alleged incompetent**) person, who is not capable of filing for him or herself due to a medical or mental disability.

Where can you file your petition?

Venue means the place (parish) where you can apply for a protective order. There are several possibilities of where you can file the petition. You can apply to the court in the parish where the stalking or sexual assault occurred, in the parish where the petitioner resides, or in the parish where the defendant resides. If those parishes are not the same, you must select one in which to file the petition. Once the order has been granted, it will be good throughout the state and nation.

Which forms should be used?

LPOR D: This is the petition form to use (including the addendum if requesting witness criminal history records), along with the Confidential Address form LPOR F, if needed, and Information for Service of Process form LPOR H.

LPOR D-R: This petition is the same as LPOR D except for the following circumstance. If a petition for protection from stalking or sexual assault has been filed against you, use LPOR D-R. Because this petition will be filed as a part of the legal action that has already been filed, and because the abuser is known as the "Petitioner" in the previously filed legal suit, in this protective order request the defendant (abuser) will now be known as the "Defendant-In-Reconvention" and you, the petitioner, will be known as the "Petitioner-In-Reconvention." **NOTE:** This is only the case if the defendant is the one who first filed the protective order action.

How can you get an order?

1. **FILL OUT FORMS AND SIGN THE PETITION AND AFFIRMATION. HAVE A WITNESS SIGN THE AFFIRMATION..** Fill out the forms using the instructions that follow: Petition (includes Affirmation) and Information for Service of Process Form. As you will be swearing that what you have written in the forms is true and can be used as evidence in court, you must sign the petition and affirmation form and have a witness sign the affirmation.

2. JUDGE or HEARING OFFICER SIGNS FORMS, ISSUES TEMPORARY ORDER and ASSIGNS A HEARING DATE. The clerk of court will assign a suit number and allot the case to the proper division of court, and then direct your signed forms to the judge/hearing officer who will review your request. If the judge agrees that immediate protection is necessary, s/he will grant you a Temporary Restraining Order (TRO) with a date to come back to court for a hearing. The TRO will contain some or all of the requests you made in the petition. The TRO will be in effect until at least the date of that court hearing. The clerk of court should provide you with a copy of the petition and a certified copy of the TRO, which you should keep with you at all times. (You may wish to make additional copies of the TRO for your employer, as well as for schools, day care centers or sitters of any children listed in the petition.) The clerk of court should tell you the date and time of the hearing for your protective order (information which is also written on your TRO), and will give a copy of the petition and the order to the sheriff's office to serve the defendant. The defendant will be notified to be present in court on the date of the hearing. It is not required that you have an attorney; you may represent yourself at the hearing. However, if you wish to be represented at the hearing, take your papers to an attorney or the nearest sexual assault program, family justice center or legal services immediately after the petition is filed to find out whether legal representation can be provided.
3. COURT HEARING. At the hearing the judge will decide whether to grant the requests made in the petition and issue a Protective Order (PO). On the date of the hearing, come to court with any witnesses you may have (people who know of or have observed the stalking or sexual assault you described in the petition). If you are representing yourself at the hearing, the judge may ask you to explain what orders you feel are necessary to protect you from further stalking or sexual assault. The defendant will be given an opportunity to respond. If you do not come to court on the date of the hearing, the temporary order (TRO) will expire, you will not be protected and the judge may dismiss your petition.
4. AFTER THE HEARING. If the judge is satisfied that you need protection, s/he will sign the Protective Order (PO) which will now be in effect for up to 18 months. The judge may grant that certain parts of the order (those related to staying away and not contacting the protected person) do not expire. You should again ask the clerk of court for certified copies of the order and keep a copy with you at all times.
5. IF A HEARING OFFICER PRESIDES AT THE HEARING. the hearing officer will write his/her recommendation to the judge regarding whether you should be granted a Protective Order and what specific relief you should get. The hearing officer will give you a copy of this written recommendation and will also give a copy to the defendant. The hearing officer will give the recommendation to the judge also. If you do not agree with the hearing officer's recommendation, you must ask for a hearing before the judge following your hearing before the hearing officer. The defendant can do the same if the defendant is unhappy with the hearing officer's recommendation. The hearing officer's recommendation to the judge is NOT a protective order - only the judge can issue a protective order. However, your temporary restraining order (TRO) should still be good for 15 days after the hearing or until the judge signs the protective order, whichever occurs last. Before you leave court, make sure that your temporary restraining order expiration date is a date at least 15 days beyond the hearing in which you just participated. If either you or the defendant has objected to the recommendation, a new hearing will be held before the judge and you will need to attend that hearing to prove your case again. If the defendant does not object to the hearing officer's recommendation and if you do not object either, the judge will sign a protective order. Before you leave, find out who to call and when to check on whether a new hearing will occur or whether your Protective Order has been signed by the judge. Also, find out when and how you can get a certified copy of your Protective Order.
6. EXTENDING THE ORDER. If you need to extend any of the expiring protections under the Protective Order beyond the period the judge granted, you must file a form to modify the Protective Order **before it expires**. The court will set a hearing, and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at the hearing to tell the Judge why you need the Protective Order to last for a longer period of time. These forms are available from the clerk of court. Be sure to get a new copy of the order if the Judge grants the extension.
7. IF THE DEFENDANT VIOLATES THE ORDER. It is a crime to violate a temporary restraining order after the defendant has been served, or a protective order. You may call the police when the order has been violated. You may also inform the court that a violation has occurred by filing a "**Rule to Show Cause Why the Defendant Should Not Be Held in Contempt.**" These forms are available from the clerk of court. When the contempt forms are filed, the court will set a hearing and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at that hearing to tell the judge what the defendant did to violate the order.

8. **MODIFYING THE ORDER.** You may not change on your own the terms or conditions of the court order. If it is necessary to change the Protective Order, a motion to modify the order must be filed with the court. The court will set a hearing and the defendant will be served with a copy of the papers and ordered to be present at the hearing. You must be present at the hearing to tell the Judge why you need to change the terms of the Protective Order. Be sure to get a new copy of the order if the Judge grants a modification.

HOW TO FILL OUT A PETITION:

In the upper left corner, fill in your name on the top line as petitioner and the name of the person committing stalking or sexual assault as defendant. Leave the lines on the top right corner of the form blank.

Check "Initial Petition" if you are beginning this court action.

Check "Supplemental and Amending Petition" if you have previously filed a petition that has not yet been heard before the court, and you are filing this petition to change or add to that petition. On the first line of the petition under the heading, fill in your name and date of birth.

Paragraph 1: Petitioner/Protected Person(s)

If you are filing this petition on your own behalf, check "a." If you are filing on behalf of a minor child/children, check "b" and fill in their names, dates of birth, and relationship to you. If you are filing on behalf of someone in your care who you believe is incompetent, check "c" and fill in their name, date of birth, and relationship to you. **If you check "b" or "c," be sure to include information in Paragraph 6 about the stalking or assaultive behavior toward the child or incompetent person.**

Paragraph 2: Protected Person(s) Address

If you do not want the defendant to know your current address, check "a." If you choose "a" you must also ask for and fill out a form called "Confidential Address Form." The clerk of court will file your address under seal to be kept confidential to the court. If you do not need to hide your current address, fill in "b" and/or "c." If you need interpreter services for yourself/protected person and/or any witnesses, check "d." If you want criminal history records to be provided, check "e."

Paragraph 3: Special Requests

If you or any of your witnesses need a language interpreter to understand and be understood in court, check "a" and provide the language interpretation needed. If you need criminal history records on the defendant or any of defendant's witnesses, you can request the court to order the sheriff to provide these by checking "b".

Paragraph 4: Defendant Address

Provide the information requested about the defendant.

Paragraph 5: Venue

Check all of the places listed that describe the parish you are filing this form in and write the parish name in the blank for each one that you check.

Paragraph 7: Description of stalking/sexual assault

In "a," if you are filing for protection from stalking, check all the behaviors exhibited by the defendant.

In "b," if you are filing for protection from sexual assault, check all the behaviors exhibited by the defendant.

In "c", describe the most recent incident of stalking or sexual assault which caused you to file this petition. Be specific; give the date and details. If police were called, or others witnessed the stalking or sexual assault, include this information in your description. If you are filing on behalf of a child or incompetent person, describe the stalking or sexually assaultive behavior toward that person. Then describe past incidents.

Paragraph 8: Requests for relief

This paragraph lists all the things you may ask the judge to grant immediately, before the hearing.

Check "a" if you are asking that the defendant be ordered not to abuse, harass, stalk, assault, follow, track, monitor or threaten you (or the protected person).

Check "b" if you are asking that the defendant not contact you (or the protected person) in any way or send gifts.

Check "c" if you want the defendant to stay at least 100 yards away from where you (or the protected person) are staying.

Check "d" if you want the defendant to stay away from your (or the protected person's) school or job and fill in the address information for each location.

Check "e" if you want the defendant ordered not to damage your (or the protected person's) property, and not to cut off your utilities, phone, or mail service.

Check "f" if you want the defendant evicted from the home so that you (or the protected person) may live

there. Fill in the local Sheriff's office and indicate who owns or leases and who occupies the residence. Check "g" if you (or the protected person) want to have or to use certain property or pets or other animals that are solely owned or leased by you (or the protected person), and fill in the current location of the property or pets. Also, check "g" if you are asking for jointly owned or leased property or pets or other animals and fill in the current location of the jointly owned property or pets or other animals. Explain why you are asking for the jointly owned property or pets or other animals. Fill in the name of the local sheriff's department that will assist you in retrieving the requested property or pets or other animals.

Check "h" to order both the protected person and the defendant not to give away, sell, or destroy any of the shared property.

Check "i" if you (or the protected person) want to return to the residence with law enforcement officers one time to get personal belongings and write "petitioner" or your name in the blank. If you (or the protected person) are staying in the residence that was once shared with the defendant, check "i" and write in "defendant" or the defendant's name in the blank to allow him/her to return with law enforcement officers once ONLY to get personal belongings.

Check "j" to ask the court to order assistance from the local Sheriff's office to accompany the person listed in "i" to the residence to get his/her belongings. Fill in the name of the local Sheriff's office.

Check "k" if you want the defendant ordered not to contact the protected person's family members or acquaintances.

Paragraph 9: Other requests

Check any of the items listed that you would like the judge to grant at the hearing. Unlike the things you have asked for in Paragraph 7, these requests **cannot** be granted until the hearing. Even though the judge signs your temporary order, these requests will not be in effect until the judge decides at the hearing whether s/he will grant them.

Prayer: This section summarizes all that you are asking for. Place a check mark next to all items that apply.

Signature: Sign the petition. If you are being represented by an attorney, the attorney signs and fills out contact information.

Service request: Fill in the abuser's name and address on the line provided under "Please Serve Defendant." Make sure you give his/her home and/or work address (not a post office box) where s/he may be served in person.

Affirmation: By signing this form, you are verifying that all information you have given is true, that you believe that the defendant poses a threat to you, and that you understand that punishment can result from your giving false information in this petition. The witness is affirming that you are the signer of this affirmation.

Addendum: If you are not asking for defendant and/or witness criminal history records, leave this page blank. If you are asking for defendant and/or witness criminal history records, fill out as much information as you can regarding any witnesses.

To obtain a copy of the defendant's criminal history record and/or that of a witness, take the Temporary Restraining Order and Petition to the Sheriff's Office in the parish where you filed the petition; they will provide a copy of such record to you.

Information for Service of Process Form Instructions:

The clerk of court should provide you with a copy of this form. The defendant must be served by the sheriff's office with a certified copy of the petition, the order, and notice to come to court on the assigned day of the hearing. To assist the sheriff's office in locating the defendant, fill out this form as completely as possible. List all the places the defendant may be found, times s/he may be in those places, and other people who may know of the defendant's whereabouts.

If the defendant is not located and has not received a copy of the order and notice of the hearing, s/he cannot be arrested for violating the order. However, if the defendant is not served, you should still attend the hearing in order to receive a new TRO from the court to continue your protection and give the Sheriff additional time to serve the defendant.

Confidential Address Form Instructions:

If you checked "a" in Paragraph 2 of the petition, you must fill out this form, which is available from the clerk of court. Your address will be kept confidential by the court and the defendant will not receive notice of where you are currently living.