

**PROTECTION ORDER
INFORMATION
DOMESTIC ABUSE**

GENERAL INFORMATION

A protection order is a court order issued to provide protection to a victim of domestic abuse, pursuant to Neb. Rev. Stat. § 42-924 et seq. Pursuant to Neb. Rev. Stat. § 42-903, a victim of domestic abuse includes spouses or former spouses, children, persons who are presently residing together or who have resided together in the past, persons who have a child in common, persons related by consanguinity or affinity, and persons who are presently involved in a dating relationship with each other or who have been involved in a dating relationship with each other.

A protection order may prohibit the respondent from imposing any restraint upon the petitioner or upon the liberty of the petitioner, threatening, assaulting, molesting, attacking, or otherwise disturbing the peace of the petitioner, and telephoning, contacting, or otherwise communicating with the petitioner. A protection order may also include a provision which removes and excludes the respondent from the residence of the petitioner, regardless of the ownership of the residence. In addition, a protection order may require the respondent to stay away from any place specified by the court, order other relief deemed necessary to provide for the safety and welfare of the petitioner and any designated family or household member, and/or may award the petitioner temporary custody of any minor children for up to 90 days.

Fees to cover costs associated with the filing, issuance, or service of a protection order shall not be charged, except that a court may assess such fees and costs if the court finds that the statements contained in the application were false and that the protection order was sought in bad faith. The court may assess costs against the adverse party at the final hearing.

Once the protection order petition is granted, it may not be withdrawn except upon order of the court. The protection order shall be effective for one year, from issuance, unless otherwise modified by the court.

In order to qualify for a protection order for domestic abuse, the acts of abuse must be those in which the respondent attempted to cause or intentionally, knowingly, or recklessly caused bodily injury, with or without a deadly weapon, or placing, by physical menace, the petitioner or child of the petitioner in fear of imminent bodily injury. In the event the protection order is sought for a minor child, the petition should be filed by the parent, guardian, or next of kin of the minor child.

NOTICE TO RESPONDENT

If an **Ex Parte** Protection Order is served upon the respondent a hearing date has been or will be scheduled to occur within 30 days of service. If the date is not listed on the order, the court shall notify you and the petitioner of the hearing date.

If the respondent wishes to defend against the claims set forth in the application for a protection order, he/she must appear at the hearing.

Warning to respondent that if you fail to appear, the case will proceed and the order shall be affirmed for the relief requested in the petition. The respondent may contact the court in order to inquire regarding the active/expired status of the protection order.

If you disobey the terms of the protection order

issued by a Nebraska court, or a protection order issued in another state, the District of Columbia, tribal lands and U.S. territories, you will be subject to the following **Nebraska Revised Statutes**.

Violation of a Protection Order: Any person convicted of violating the terms of a protection order after being served shall be guilty of a Class II misdemeanor. Any person convicted of violating a protection order who has a prior conviction for violating the same protection order granted to the same petitioner shall be guilty of a Class IV felony.* Any person convicted of violating a protection order who has a prior conviction for violating a protection order shall be guilty of a Class I misdemeanor. Neb. Rev. Stat. § 42-924.

Penalties: A Class I misdemeanor is punishable by not more than one year imprisonment, or one thousand dollar fine, or both. A Class II misdemeanor is punishable by not more than six months imprisonment, or one thousand dollar fine, or both. A Class IV felony is punishable by five years imprisonment, or ten thousand dollars fine, or both. Neb. Rev. Stat. §§ 28-106 & 28-105.

If a protection order has been issued against you, the following **United States Federal Statutes** apply to the issuance of a qualifying protection order.

Full Faith and Credit Provision: Pursuant to the Violence Against Women Act of 1994, 18 U.S.C. § 2265, this order is enforceable in all fifty (50) states, the District of Columbia, tribal lands and U.S. territories. The penalties for violation of this order are determined by the existing penalty of the location in which the violation occurred. Nebraska's Domestic Abuse Full Faith and Credit provisions are found in Neb. Rev. Stat. § 42-931.

Firearms Prohibition: Individuals who are the subject of domestic violence protection orders may be prohibited from purchasing, receiving and possessing firearms and ammunition. To qualify, the respondent must have had the opportunity for a hearing, whether or not he or she participated, and the order must include a finding that the respondent represents a credible threat to the physical safety of the petitioner(s), and the petitioner(s) was in reasonable fear of bodily injury. If a final order is entered against you after a hearing, whether or not you attended, you are prohibited from possessing, transporting, or accepting a firearm or ammunition under the 1994 amendment to the Gun Control Act, 18 U.S.C. § 922(g)(8).

Interstate Domestic Violence: If you travel across state or tribal land with the intent to injure the petitioner and then intentionally commit a crime of violence causing bodily injury to the petitioner, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. § 2261(a)(1). You may also be convicted of committing a federal offense if you cause the petitioner to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a)(2).

Interstate Violation of a Protection Order: If you travel across state or tribal land lines with the intent to violate the final protection order and subsequently violate such order, you may be convicted of committing a federal offense under the VAWA, 18 U.S.C. § 2261(a)(1). You may also be convicted of committing a federal offense if you cause the plaintiff to cross state or tribal land lines for this purpose. 18 U.S.C. § 2262(a)(2).

* The 2002 Legislature passed L.B. 82, "...violating a protection order granted to the same petitioner shall be guilty of a Class IV felony...." Effective July 20, 2002.