

INSTRUCTIONS FOR PETITION FOR ORDER OF PROTECTION—FILED ON BEHALF OF A CHILD

Under the Indiana Civil Protection Order Act (Indiana Code § 34-26-5), courts can issue orders to protect people from domestic or family violence, stalking, or a sex offense. These court orders are called “Orders for Protection.” There are two (2) kinds of Orders for Protection—an Ex Parte Order for Protection, which is issued without a hearing, and an Order for Protection Issued After a Hearing. Orders for Protection normally last 2 years, unless the Judge decides on a different duration.

The protected person (in this case, a minor child) is called the “Petitioner.” The Petitioner must file a Petition in a court of record, against the other person, called the “Respondent.” There are 2 different Petitions a person can file: one kind allows a person to seek protection for himself or herself, and another allows a representative to ask for protection on behalf of a child. This representative is called the child’s “Next Friend.” This Instruction booklet explains how to fill out forms for a case in which the Next Friend is seeking protection on behalf of a child, *not* for himself or herself. If you want to apply for an Order for Protection for yourself, please ask the Clerk of the Court for the proper Instruction booklet and Petition.

IMPORTANT NOTICE: In order to file a case, you *must* have the Respondent’s correct name. In order to assist law enforcement in enforcing the Order for Protection you should have the Respondent’s date of birth and/or Social Security number and current address. The Respondent’s current address may also be necessary for the Court to grant certain forms of other relief.

Unless the next friend of the Petitioner provides the Respondent’s date of birth or social security number, the protection order cannot be entered into certain important databases (NCIC database and IDACS). Even without this information, the protection order will still be included in the Indiana Protection Order Registry.

Even if the protection order cannot be entered into the national Protection Order Registry, it will be valid and enforceable throughout the United States. It is highly recommended that the child’s custodian or anyone who has charge of the child, carry the Child’s Order For Protection with them at all times, especially when traveling with the child outside the State of Indiana.

This Instruction booklet explains how to fill out the Petition and Confidential Form. It also contains some Instructions for Respondents. These Instructions cannot

- The Child and the Respondent are now related to each other by marriage, or used to be related to each other by marriage (for example, they are a step-brother and a step-sister);
- The Child was the biological child of the Respondent and was adopted by the Petitioner;
- The Child and the Respondent are now, or used to be, in one of these kinds of relationships:
 - The Respondent is or was the Child's guardian;
 - The Child is or was the Respondent's ward;
 - The Respondent is or was the Child's custodian;
 - The Respondent is or was the Child's foster parent; or,
 - A similar relationship.

“Stalking” is defined by Indiana law (Indiana Code § 35-45-10-1) as: “A knowing or intentional course of conduct involving repeated or continuing harassment of another person that would cause a reasonable person to feel terrorized, frightened, intimidated, or threatened and that actually causes the victim to feel terrorized, frightened, intimidated, or threatened.” The term “course of conduct” means two (2) or more incidents.

As used in the stalking law, **“harassment”** means: “Conduct directed toward a victim that includes but is not limited to repeated or continuing **impermissible contact** that would cause a reasonable person to suffer emotional distress and that actually causes the victim to suffer emotional distress. Harassment does not include statutorily or constitutionally protected activity, such as lawful picketing pursuant to labor disputes or lawful employer-related activities pursuant to labor disputes.”

As used in the stalking law, **“impermissible contact”** includes (but is not limited to): “Knowingly or intentionally following or pursuing the victim.” Stalking can occur solely on the Internet or by text or phone.

A **“sex offense”** means one of the following crimes under Indiana law (Indiana Code § 35-42-4):

- Rape;
- Criminal deviate conduct (repealed);
- Child molesting;
- Child exploitation—Possession of child pornography;
- Vicarious sexual gratification—Performing sexual conduct in the presence of a minor;
- Child solicitation;
- Child seduction;
- Sexual battery;
- Sexual misconduct with a minor;
- Unlawful employment near children by a sexual predator;
- Sex offender residency offense;
- Sex offender Internet offense;

- Judge why the Petitioner needs an Order for Protection for the Child, to describe what happened, and to list every kind of relief the Petitioner is asking for.
2. *Confidential Form*—this is the form used by the Petitioner and the Clerk of the court to record important information about the people involved in the case. The information on this form is entered into a computer that law enforcement officers (police, sheriff, etc.) can access. The information on this form is confidential according to state law. The only people who will have access to it are law enforcement officers, prosecutors, and court and clerk staff. This form must be submitted with the Petition at the time the case is filed.
 3. *Notice of Exclusion Form*. This Notice informs anyone reviewing the Court file that the Confidential Form, a document excluded from public access under Indiana law, has been filed with the Court. This form must be submitted with the Confidential Form at the time the case is filed.
 4. *Respondent's Verified Request for a Hearing*—once a Respondent has received a copy of the Petition and the Ex Parte Order for Protection, he or she can ask the Judge to set the case for a hearing. The Respondent should use this form to make that request.

Will the case automatically be set for a hearing?

It depends on what the Judge orders. Some Ex Parte Orders for Protection do not require a hearing—although a Respondent can ask for one within 30 days of receiving a copy of the Ex Parte Order for Protection. If a Petitioner asks for certain things, or if the Judge orders certain things, then a hearing must automatically be set. Here is a list of the different kinds of things a Judge can order and of the situations for which the law requires a hearing. Remember, the Respondent can always ask for a hearing, as long as the request is made within 30 days of receiving a copy of the Ex Parte Order.

The Judge can order the following without a hearing unless the Respondent asks for one:

- Prohibiting the Respondent from committing, or threatening to commit, acts of domestic or family violence, stalking, or sex offenses against the Child, or the Child's family or household members;
- Prohibiting the Respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with the Child;
- Ordering the Respondent to stay away from the Child's residence, school, place of employment, or other places; and,
- Ordering the Respondent to stay away from places where the Child's family or household members regularly go.

The Judge can order the following immediately but will have to hold a hearing within 30 days:

- Evicting the Respondent from the Child's home;
- Ordering the Respondent to give the Child the possession and use of:
 - A home they both share;

the case and issues an order or a ruling. All parties to a case have a **right to be notified** that a legal action is being taken against them, and they have a **right to be heard** and to dispute the action in court.

An *ex parte* order is contrary to this principle. It is issued after the judge has only heard one side of the case, and before the opposing side even has notice that legal action is being taken against them. An *ex parte* order is rare in the justice system. *Ex parte* orders are granted by courts in exceptional circumstances.

Are Ex Parte Orders for Protection automatically issued?

No. As just explained, *ex parte* orders are only granted in exceptional circumstances which require an immediate order without giving the other party an opportunity to respond. Court orders are not issued just because a person asks for one. It is important to pay attention to every detail in filling out your Petition for an Ex Parte Order for Protection. The Judge who reviews the Petition will carefully examine the information in the Petition to determine if the situation meets the legal requirements for an *ex parte* order.

Why might the Petition for an Ex Parte Order for Protection be denied?

There are many reasons why the Ex Parte Order for Protection might be denied. Some of the most common reasons include:

- The parties do not fit the legal definition of “family or household member.”
- The Child does not live in Indiana, the Respondent does not live in Indiana, and the incident did not occur in Indiana.
- The factual allegations do not meet the legal definitions of “domestic or family violence,” “stalking,” or of a “sex offense.”
- The allegations are vague. They lack a clear and understandable description of the time, place, or acts of the incident.
- If you are relying solely on what another person saw or told you, a failure to include a sworn affidavit from that other person.

INSTRUCTIONS FOR PETITIONERS

What steps need to be taken to get the court order?

1. **There are no fees associated with this kind of case. You should not be asked to pay a filing fee, a service of process fee, a witness fee, or a subpoena fee.**
2. You will need 4 copies of the Petition: 1 for a worksheet; 1 for the court’s file; 1 copy to be served on the Respondent; and, 1 copy for yourself.
3. You will need 1 copy of the Confidential Form. **Please note: you should have the Respondent’s correct name, correct date of birth or Social Security number, and correct, current address.** Respondent’s date of birth

6. If you are seeking an Order for Protection based on information given to you by other people (for example, a neighbor who saw the Respondent hurt the Child), and not on the basis of what **you** personally observed, you must attach to the Petition affidavits by the people who do have personal knowledge of the facts that support the granting of an Order for Protection. Also, those people will have to appear in court in person, as witnesses, to testify if there is a hearing set in the case.
7. Take all of your completed forms to the Clerk's office. The Clerk will tell you where to take your papers.

What if the Judge issues an Ex Parte Order for Protection?

1. If you get an Ex Parte Order for Protection, make sure you get several copies from the clerk that are file-stamped and that have the judge's signature on them. Think about how many copies of the Order you will need: 1 to carry with you; 1 copy to give to the Child; 1 copy for a landlord/security guard; 1 copy for the Child's school, doctor, babysitter, etc.
2. If the court must hold a hearing on the Petition, make sure you know the correct date and time of the hearing before you leave the Clerk's office. Make sure you have the court's telephone number so that you can call ahead a few days before the hearing and confirm the court date and time.

How should I prepare for a hearing?

1. If the court holds a hearing on your Petition, go to the court hearing with any and all evidence you might have. If there are any witnesses to the Respondent's conduct, they must also be at the hearing. If you are not sure whether or not you will need something, bring it just in case the Judge wants to look at the information.
2. If the Judge issues an Order for Protection Issued After a Hearing, make sure to get enough signed, file-stamped copies for yourself, the Child, one (1) copy for a landlord/security guard; one (1) copy for the Child's school, doctor, babysitter, etc.

INSTRUCTIONS FOR RESPONDENTS

1. If you are served with a *Petition for an Order for Protection and Request for a Hearing* and an *Ex Parte Order for Protection*, you should promptly seek legal advice. If you have no attorney, the lawyer referral service of your local bar association may be helpful. The Clerk, the Court, and other court staff are prohibited from giving you legal advice.
2. Read the papers served on you very carefully. The *Ex Parte Order for Protection* will forbid you from doing certain things, and may order you to do certain other things. **If you disobey the court's orders, you may be arrested and criminal charges may be filed against you.**
3. If you wish to oppose the Petition or Order, or want to request your own Order for Protection, or if you want the court to have a hearing on the Petition and Order,

STATE OF INDIANA)
) SS:
COUNTY OF _____)

IN THE _____ COURT _____
(_____ DIVISION, ROOM _____)

CASE NO. _____

_____))
Name of Minor Child, Petitioner)
_____))
By Child's Next Friend, (Your Name))
vs.)
_____))
Respondent (Person to be Restrained))

**PETITION FOR AN ORDER FOR PROTECTION AND REQUEST FOR A
HEARING—Filed on Behalf of a Child**

**IMPORTANT: This is a public document and a copy of it will be placed in the Court's file. A copy may also be sent to the Respondent.
(Check those which apply)**

1. **I am filing this Petition for a child. The child who needs protection is or has been a victim of domestic or family violence, a sex offense, or stalking, and I am that person's:**

___ parent
___ guardian
___ other representative (*describe:* _____).
_____).

2. **What is the Respondent's relationship to the child who needs protection?**

- a. The Respondent is a family or household member (*check only the line which best applies*):

___ the Respondent is, or used to be my spouse and the child lived with us;
___ the Respondent and I resided together in an intimate relationship and the child lived with us;
___ the Respondent is a parent of the child;
___ the Respondent is, or used to, date the child;
___ the Respondent is, or has been, engaged in a sexual relationship with the child;
___ the Respondent and the child who needs protection have a child in common;
___ the Respondent and the child are related by blood or adoption. The Respondent is the child's _____;
___ the Respondent and the child are, or used to be, related by marriage. The Respondent is the child's _____;
___ the Respondent is, or used to be, the child's guardian;
___ the Respondent is, or used to be, the child's custodian;
___ the Respondent is, or used to be, the child's foster parent;

- the child who needs protection is a minor child of someone in one of the types of relationships described above.
- b. the Respondent has committed stalking against the child who needs protection.
- c. the Respondent has committed a sex offense against the child who needs protection.

3. **How old is the Respondent?** _____ years old.

4. **Please list all cases (divorce, protection orders, paternity, guardianship, criminal, juvenile, civil) involving the Respondent, or the Child you have with the Respondent (attach additional sheets of paper if necessary):**

Case Name	Case Number	County & State

_____ **Continued on Attachment 4a.**

5. **This case is filed in this county because:**

- a. the Respondent lives in this county.
- b. the incident(s) of domestic or family violence, stalking, or the sex offense happened in this county.
- c. the child who needs protection lives in this county.
- d. the Petitioner lives in this county.

6. **If you are not represented by an attorney, fill in your public mailing address:**

This address will not be kept secret, so you should use a mailing address that you feel comfortable having public. If the Court grants the order, you may be eligible to obtain a confidential address through the Attorney General's Address Confidentiality Program (ACP). Email the ACP at: confidential@atg.state.in.us to get information on how to participate in that program.

7. **The Respondent has committed the following act(s) of domestic or family violence, stalking, or a sex offense (check those which apply):**

- the Respondent attempted to cause physical harm to the child who needs protection;
- the Respondent threatened to cause physical harm to the child who needs protection;
- the Respondent did cause physical harm to the child who needs protection;
- the Respondent placed the child who needs protection in fear of physical harm;
- the Respondent caused the child who needs protection to involuntarily

- engage in sexual activity by force, threat of force, or duress;
- ___ the Respondent committed stalking against the child who needs protection;
- ___ the Respondent committed a sex offense against the child who needs protection.
- ___ the Respondent committed an act of animal cruelty by beating, torturing, mutilating, or killing a vertebrate animal without justification with an intent to threaten, intimidate, coerce, harass or terrorize a family or household member.

8. Describe what happened in each of the above incidents including the date(s), place(s) and witnesses to each incident (attach additional sheets of paper if necessary):

Date of Incident #1: _____
Place of Incident: _____
Description of Incident:

List the names of all of the people who were present during the incident. You must include your own name if you were present:

Date of Incident #2: _____
Place of Incident: _____
Description of Incident:

List the names of all of the people who were present during the incident. You must include your own name if you were present:

Date of Incident #3: _____
Place of Incident: _____
Description of Incident:

List the names of all of the people who were present during the incident. You must include your own name if you were present:

___ **Continued on Attachment 8a.**

9. I am asking the Court to order the following relief (check all which apply):

___ Prohibit the Respondent from committing, or threatening to commit, acts of domestic or family violence, stalking, or sex offenses against the child who needs protection;

___ Prohibit the Respondent from committing, or threatening to commit, acts of domestic or family violence, stalking, or sex offenses against the family or household members of the child who needs protection. Their names are:

_____;

___ Prohibit the Respondent from harassing, annoying, telephoning, contacting, or directly or indirectly communicating with the child who needs protection;

___ Order the Respondent to stay away from the child's residence, school, place of employment, or other place, which is the _____, located at: _____;

___ Order the Respondent to stay away from the following location(s) frequented by the family or household member(s) of the child, which may include a residence, school, or place of employment:

_____;

Please complete:

Please list all owners or lease signers at the Child's residence:

_____.

NOTE: The following requested relief may be granted immediately by the Judge, but the Court must hold a hearing within thirty (30) days:

___ Evict the Respondent from the child's residence, which is located at: _____;

___ Order the Respondent to give the child the possession and use of the following:

___ The residence located at: _____;

___ An automobile/other motor vehicle described as: _____;

___ Other necessary personal items, described as: _____;

___ Prohibit Respondent from removing, transferring, injuring, concealing, harming, attacking, mistreating, threatening to harm, or otherwise disposing of the animal(s) listed below.

Example	Name:	Max
	Age/Type:	9 year old dog
	Size /Breed:	Large 55 pound black lab
	Description:	Black hair, pink collar

Animal 1 Name: _____
Age/Type: _____
Size/Breed: _____
Description: _____

Animal 2 Name: _____
Age/Type: _____
Size/Breed: _____
Description: _____

Additional animals listed on Attachment 9(a).

___ Order that I will have the exclusive possession, care, custody, or control of an animal(s) owned, possessed, kept, or cared for by myself, the Respondent, a minor child of myself or the Respondent, or any other family or household member listed below.

Animal 1 Name: _____
Age/Type: _____
Size/Breed: _____
Description: _____

Animal 2 Name: _____
Age/Type: _____
Size/Breed: _____
Description: _____

Additional animals listed on Attachment 9(a).

___ Order the following additional relief necessary to provide for the child's safety and welfare and the safety and welfare of the child's family or household members:

NOTE: The following requested relief may be granted ONLY after notice to the Respondent and at a hearing to be held within thirty (30) days:

- ___ Specify the arrangements for parenting time;
- ___ Require that parenting time be supervised by a third party;
- ___ Deny the Respondent parenting time;
- ___ Order the Respondent to pay the Petitioner's or child's attorney fees;
- ___ Order the Respondent to pay rent for the child's residence;
- ___ Order the Respondent to make payment on a mortgage for the child's residence;

___ Order the Respondent to pay support for the child, or for minor child(ren) in common with the child who needs protection;

___ Order the Respondent to reimburse the Petitioner and/or the child who needs protection for expenses related to the domestic or family violence, stalking, or sex offense as follows

(specify the amount for each expense and bring documentation of the expense with you to Court for the Hearing):

___ Medical expenses: \$ _____

___ Counseling: \$ _____

___ Shelter: \$ _____

___ Repair or replacement of damaged property: \$ _____

___ Other costs or fees the Petitioner or child has as a result of bringing this case: \$ _____

___ Prohibit the Respondent from using or possessing a firearm, ammunition, or deadly weapon;

___ Order the Respondent to surrender the following firearm(s), ammunition, or deadly weapon(s) to a specified law enforcement agency *(list each item below and attach an additional sheet of paper if necessary):*

_____;

___ **Continued on Attachment 9b.**

___ Order a wireless service provider to transfer to me the right to continued use of, and financial responsibility for, the following telephone number(s) used by a minor child in my custody:

Telephone Number and User: _____
Wireless Service Provider: _____
Current Account Holder: _____

Telephone Number and User: _____
Wireless Service Provider: _____
Current Account Holder: _____

Additional telephone numbers listed on Attachment 9(c)

NOTE: A wireless service provider's normal requirements for setting up a new cellular telephone account still apply. You should consider whether you will be able to set up an account in your own name and whether you will be able to pay for the account.

10. Number of pages attached: _____

By filing this Petition, I am respectfully requesting that the Court immediately issue an Ex Parte Order for Protection. I understand that, if I have asked for relief from the Court regarding any of the following:

- evicting the Respondent from the child's home;
- giving the child the possession of personal property;
- giving me possession of an animal;
- prohibiting Respondent from taking action against an animal;
- establishing rules for child parenting time;
- requiring the Respondent to pay fees, expenses, or child support;
- forbidding the Respondent from possessing a firearm, ammunition, or a deadly weapon;
- ordering the Respondent to surrender firearm(s), ammunition, or deadly weapons; or
- allowing me or a child in my custody to continue to use a telephone number that I will be financially responsible for;

I must also ask the Court to set a date for a Hearing within thirty (30) days of today's date. I understand that if a Hearing is set, and if I fail to appear for the Hearing, the Court may terminate the Ex Parte Order and dismiss the case.

I affirm, under the penalties for perjury, that the foregoing representations are true:

- a. on the basis of my own personal knowledge.
- b. on the basis that I have been informed and believe that the facts stated are true. *(NOTE: If this Petition is made solely on the basis of Petitioner's information and belief, Petitioner must attach affidavits by one or more persons who have personal knowledge of the facts stated.)*

DATE: _____

PETITIONER - Type or print name of child

Signature of child's next friend

CASE IDENTIFICATION INFORMATION FOR CONFIDENTIAL FORM

For use by Court, Clerk, Prosecuting Attorney, and Law Enforcement Personnel ONLY

DIVISION OF STATE COURT ADMINISTRATION

STATE OF INDIANA) COUNTY OF _____) _____ PETITIONER/PLAINTIFF/NEXTFRIEND/STATE OF INDIANA v. _____ RESPONDENT/DEFENDANT _____ EMPLOYEE (IF WVRO)	COURT: <input type="checkbox"/> Superior, Room #: _____ (check one) <input type="checkbox"/> Circuit CASE #: _____ - _____ - _____ DATE: _____ mm/dd/yyyy
--	---

PERSON RESTRAINED

Name:	Home: (____) _____			
Home address:	Work: (____) _____			
	Cell: (____) _____			
	Email: _____			
Postal address (if different from home address):	Location of place of business or where person is usually or often found:			
Sex: <input type="checkbox"/> male <input type="checkbox"/> female				
DOB:	Describe nature and location of any scars or tattoos:			
Any scars or tattoos? <input type="checkbox"/> Yes <input type="checkbox"/> No				
Race:	Hair color:	Eye Color:	Height:	Weight:

List the name(s), age, race, and sex of any person(s) residing at the household of the protected person who are NOT PROTECTED parties. Protected parties are listed on the Confidential Form which follows. Attach an additional sheet of paper if necessary.

Name:	Age:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
	Race:	
Name:	Age:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
	Race:	
Name:	Age:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
	Race:	
Name:	Age:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
	Race:	
Name:	Age:	Sex: <input type="checkbox"/> Male <input type="checkbox"/> Female
	Race:	

CONFIDENTIAL FORM

Note: The following information is confidential under Indiana law pursuant to Indiana Code § 5-2-9-7, and it may not be released.

PETITIONER

Home address:

DOB:
Race:
Sex: male female

SSN: (optional)

Home: (____) _____
Work: (____) _____
Fax: (____) _____
Cell: (____) _____
Email: _____

PROTECTION ORDERS ONLY:

Do you wish to receive notifications when the order is issued, served, and about to expire? Yes No

Method: Email Text Fax

Cell Phone Service Provider (if you selected Text as the notification method): _____

You must provide data in the proper fields above to match the Method of notification chosen. See Notification Information at the bottom of this form.

Postal address (if different from home address):

When can protected person be reached at the above numbers or any alternative numbers?

Other protected address:

List the cities/counties where the protected person would like a copy of the order sent:

Address from confidentiality program of Attorney General:

OTHER PROTECTED PARTIES

Name: Age: Sex: Male Female
Date of Birth: Race:

Name: Age: Sex: Male Female
Date of Birth: Race:

Name: Age: Sex: Male Female
Date of Birth: Race:

Attach an additional sheet of paper if necessary to list additional protected parties.

PERSON RESTRAINED

SSN: _____

The "Confidential Form" portion of this form must be on green paper according to Admin. Rule 9

Notification Information

- The user will incur standard text-messaging fees for any messages received.
- The user is responsible to notify the Clerk's office of any changes to their contact information which may include their cell phone number and email address.
- The Indiana Supreme Court's Division of State Court Administration may not be held liable for the failure of the receipt of a notification.
- The notifications sent to users are a service being provided by the Indiana Supreme Court's Division of State Court Administration.
- Cell Phone Service Providers Supported: Alltel, AT&T, Boost, Cellular South, Centennial Wireless, Cincinnati Bell, Cricket Wireless, Metro PCS, Powertel, Qwest, Rogers, Sprint, Suncom, Telus, T-Mobile, US Cellular, Verizon Wireless, Virgin Mobile